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Ontario

ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN AND
RELATED MATTERS.

Hearing held
8th floor
180 Dundas Street West
Toronto, Ontario

The Honourable Mr. Justice S.G.M. Grange

Commissioner

P.S.A. Lamek, Q.C.

Counsel

E.A. Cronk

Associate Counsel

Thomas Millar

Administrator

Transcript of evidence
for

April 25, 1984

VOLUME 135

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ROYAL COMMISSION OF INQUIRY INTO CERTAIN
DEATHS AT THE HOSPITAL FOR SICK CHILDREN
AND RELATED MATTERS.

Hearing held on the 8th Floor,
180 Dundas Street West, Toronto,
Ontario, on Wednesday, the 25th
day of April, 1984.

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THE HONOURABLE MR. JUSTICE S.G.M. GRANGE - Commissioner
THOMAS MILLAR - Administrator
MURRAY R. ELLIOT - Registrar

- - - - -

APPEARANCES:

P.S.A. LAMEK, Q.C.)	Commission Counsel
E. CRONK)	
D. HUNT)	Counsel for the Attorney
L. CECCHETTO)	General and Solicitor General
	of Ontario (Crown Attorneys
	and Coroner's Office)
I.J. ROLAND)	Counsel for The Hospital for
M. THOMSON)	Sick Children
R. BATTY)	
B. PERCIVAL, Q.C.)	Counsel for The Metropolitan
D. YOUNG)	Toronto Police
W.N. ORTVED	Counsel for numerous doctors
	at The Hospital for Sick
	Children
B. SYMES	Counsel for the Registered
	Nurses' Association of Ontario
	and 35 Registered Nurses at
	The Hospital for Sick Children

(Cont'd)...



APPEARANCES: (Continued)

D. BROWN	Counsel for Susan Nelles - Nurse
C. THOMSON, Q.C.)	Counsel for Phyllis Trayner -
G.R. STRATHY)	Nurse
P. RAE)	
J.A. OLAH	Counsel for Janet Brownless - R.N.A.
B. KNAZAN	Counsel for Mrs. M. Christie - R.N.A.
S. LABOW	Counsel for Mr. & Mrs. Gosselin, Mr. & Mrs. Gionas, Mr. & Mrs. Inwood, Mr. & Mrs. Turner, Mr. & Mrs. Lutes, and Mr. & Mrs. Murphy (parents of deceased children)
W.W. TOBIAS	Counsel for Mr. & Mrs. Hines (parents of deceased child Jordan Hines)
J. SHINEHOFT	Counsel for Lorie Pacsai and Kevin Garnet (parents of deceased child Kevin Pacsai)



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1
2 --- Upon commencing at 10:00 a.m.

3 THE COMMISSIONER: Yes, Mr. Hunt.

4 PHYLLIS TRAYNER, Resumed

5 CROSS-EXAMINATION BY MR. HUNT: (Continued)

6 MR. HUNT: Thank you.

7 Q. Mrs. Trayner, just before we
8 go on I want to go back to the one matter that we
9 dealt with yesterday and that involved the discussion
10 that we had about the likelihood of whoever was
11 responsible if in fact that happened of you being
12 set up or framed, it was or it was not a doctor.
13 You indicated at page 926, this is Volume 134,
14 Mr. Commissioner, that your reason for not feeling
15 you could rule out doctors was that you didn't think
16 that a doctor's attendance unsummoned on the ward
17 even continually would have aroused suspicion at
18 the time because - I am looking at line 12 - you said:

17 "We had doctors that will come back
18 and they may be in looking at a baby,
19 and we wouldn't say, you know, what
20 are you doing here, or where did you
21 come from. We may have known them
22 from a tour that they did on 4A, you
23 know, three, four, five months ago,
24 they could be on a tour on another
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"floor and they could have just come
down to see who was working."

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And that was your basis for not feeling comfortable
ruling out doctors.

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Now, one thing that I neglected to
ask you was, in the case of children who are on
constant nursing care or shared nursing care where
someone, a nurse is with the baby all the time,
would it not be virtually impossible for a doctor
to, unannounced and uncalled for, intervene in the
care of that baby without somebody who was there
constantly with the baby noticing that and remarking
on it, noticing something was odd, someone who wasn't
supposed to be there was there?

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A. Well, that would be right, yes.

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Q. And we have a number of cases
of children on the list of 29 Category A and B deaths
who were on constant care or shared care. We have
Baby Hoos and Baby Estrella and Baby Cook, all of
whom were on constant care; on shared care we had
Baby Monteith and Baby Gardner. So, we have really
five children of the 29 on the list in Exhibit 383
that fall into that category.

23

A. Right.

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Q. And inasmuch as it is virtually



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2 impossible in those five cases, as you have agreed,
3 that for a doctor to have intervened unnoticed by
4 anyone or without creating some suspicion, really,
5 doesn't that rule out a doctor as being a potential
6 person who could have met the criteria we discussed
7 and have been responsible for setting you up?

8 MR. THOMSON: I wonder,
9 Mr. Commissioner, if it is helpful. I mean, whatever
10 the witness says to this is simply speculation, she
11 doesn't know what investigation was done.

12 THE COMMISSIONER: Well, I think
13 if that's the grounds for the objection that she
14 couldn't be of some help, but she was there, she
15 knows what the circumstances are and we are not.
16 So, she can tell us a great deal better whether a
17 doctor would have been noticed or whether he wouldn't.

18 However, I am having some concern
19 about something even more broad than that as to
20 whether it is really any part of my mandate any more
21 to consider whether doctors are or are not the
22 perpetrator, if there are perpetrators.

23 MR. THOMSON: I have no difficulty
24 with the first -- Well, may I say two things. I
25 am confused as to what your mandate is now, sir,
having regard to the decision of the Court of Appeal,



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and I don't think I could be of any more help. On the first aspect of it I would not have interrupted if the question of Mrs. Trayner had been to the point of, can you think of any way in which a doctor could intervene in these kinds of situations when there is a nurse there all the time.

THE COMMISSIONER: Well, you think it's a question of law and you are ruling out --

MR. THOMSON: And a conclusion that for example he invites Mrs. Trayner to speculate about whether a doctor could possibly have put anything in the food or in the IV or all the other suggestions that we have heard that nurses might have done during the course of this proceeding. I mean, you are inviting Mrs. Trayner to speculate on all kinds of things that aren't helpful to us.

THE COMMISSIONER: Yes. Well, there is something in that, Mr. Hunt. We've got as far as it would be difficult if not impossible for a doctor to get to a child on constant or shared care. Do you expect Mrs. Trayner to say anything else?

MR. HUNT: You and I may have come to that conclusion but I don't think the witness has indicated that at all. That's what I was going to.



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3 THE COMMISSIONER: All right. But
4 remember that's what the point is. What she can't
5 help us with is the fact that she knows whether a
6 doctor could or could not be involved when she or any other
7 nurse was involved in the constant or shared care. So,
if you want to pursue it in that direction, do.

8 MR. HUNT: Q. Maybe the quickest
9 way to sum this up is to ask you whether in light
10 of what we have discussed this morning about the
11 children who are on constant nursing care or shared
12 care and the virtual impossibility of a doctor
13 being able to intervene in those situations without
14 arousing suspicion, I could ask you whether you
15 agree with Mrs. Coulson who gave evidence here,
16 Volume 108, page 4553 and Volume 109 at page 4659.
17 When asked about this area she told us she couldn't
18 say for sure that it was a nurse, it could be a
nurse.

19 A. Well, I can't really rule out
20 doctors and I can't say, you know, it was nurses.
21 I didn't do an investigation or have the expertise
22 to give you a qualified answer on that question.

23 Q. I know, and that's what you
24 said yesterday. I have just suggested to you this
25



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2 morning that in five cases, five of the 29 cases we
3 have to rule out the doctors because they were on
4 constant nursing care or shared nursing care.

5 A. Well, I would say that the
6 doctors can come to the floor and look at the baby
7 who is on shared care and on constant care. An
8 example was that Dr. Jedeikin came in, he wasn't
9 called, on the Saturday night at midnight and came
10 in to see Justin Cook.

11 Q. It would be pretty hard for --

12 A. Susan knew that he was there.
13 But I'm not with the children all the time.

14 Q. It would be pretty hard for
15 a doctor to come in and administer an overdose of
16 digoxin intravenously to a child with a nurse on
17 constant care, on constant watch of the baby,
18 standing there observing him without arousing
19 suspicion, wouldn't it?

20 A. If the nurse was there, but
21 there are occasions when a nurse - Susan had left
22 the room when Dr. Jedeikin come in for a second.

23 Q. Well, you're talking about
24 one case, ma'am. I'm referring you to a series of
25 29 and five of which fall into the category of
constant care or shared care babies.



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A. Yes.

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Q. And I think we have heard from you during your examination in chief that it wasn't a practice of nurses on your team, as far as you are aware, on constant care to leave the children unattended.

A. I think I mentioned that they had gone out on occasion to pick up medications or to pick up a bottle.

Q. Run out for a diaper or a bottle or something like that?

A. Right.

Q. So, your concern is during one of these occasions in these five cases where a nurse who is supposed to be on constant watch of a child ran out to get a diaper or a bottle that a doctor may have slipped in and administered the dose?

A. Well, I'm saying that everything is a possibility.

Q. And I'm not disputing that. I'm just asking you, ma'am, would you not agree that looking at the numbers we are dealing with here, 29 over a nine month period, five of whom were on constant watch by a nurse, that really, I think we



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have to say that while anything is possible, it is more
probably a nurse?

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A. I think that would be just
purely speculation.

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Q. You don't want to answer that?

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A. I don't think I really can.

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Q. Now, we have the incident of
Amber Dawson that you have discussed at length, and
this is the question of the dispute between you and
Susan Nelles about the Code 23 versus the Code 25.

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A. Yes.

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Q. And as I understand it in
summary the problem was that you at the point in
time we are concerned with would have called a Code
25, Susan Nelles wanted to call a Code 23?

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A. That's correct.

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Q. And the effect of a Code 25 is,
it brings the resuscitation team?

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A. That's correct.

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Q. This is a team that works
throughout the Hospital wherever there is a cardiac
arrest, not just on 4A or 4B but anywhere?

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A. Right.

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Q. They can be called to attempt
to revive a patient's heart to estopped.



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A. Right.

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A. No, I don't agree with that.

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Q. Well I am suggesting to you that is the significance, or one of the interpretations of some significance with respect to this dispute over the Code 23 and Code 25.

A. Is that yours?

Q. I am suggesting it to you and I am asking for your view on that.

A. No. I viewed a Code 25 as a cardiac emergency.

Q. We are going to get into what - and I understand your evidence as to what you viewed, and we are going to get into that. I am just saying the significance of this dispute between the two of you it is important, because one of the interpretations that one can take of the fact that someone wanted to call a Code 25 before the patient had deteriorated to that point is that that person knew something about the condition of the patient that the other people involved didn't. I am just saying that is why it is important, because that is one of the interpretations open. Do you see that?

A. That may be your interpretation but I never interpreted it that way.

Q. Let's go on to see what your interpretation was. You, as I understand your



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evidence at Volume 129, page 5354, felt that a Code 25 was something that you called whenever there was a cardiac emergency even though there was still a heart beat and it hadn't resulted in a cardiac arrest?

A. That's correct.

Q. And Susan Nelles' view apparently was a Code 25 was called when the heart stopped and you wanted the resuscitation team there to try to re-start it?

A. That's correct.

Q. Now you indicated as well that you resolved this problem by making a decision to make a conscious effort to work, try to work together on this?

A. Right.

Q. Now if the reason for the difference of opinion was, as you say, your view that a Code 25 was the appropriate call in any cardiac emergency, I am suggesting to you that what really existed between you and Susan Nelles was a fairly fundamental difference. This wasn't something, I am suggesting to you this wasn't something that is a mere difference of opinion over two ways in which to proceed in a situation, this was a difference of opinion of fundamental importance.



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A. I thought of it as a difference of opinion.

Q. Let me try it this way. You both couldn't be right, could you?

A. I don't know what you are trying to say. If a Code 25 was called, the team would be there.

Q. I am suggesting that either one of you is right and one of you is wrong. You don't have the resuscitation team rushing to a cardiac ward every time there is an emergency in terms of the heart rate or the heart performance of the patient?

A. No, it didn't. The Code 25s were called, these were critical children that had gone down fast.

Q. What I am suggesting to you though, Mrs. Trayner, is that this was a matter of such fundamental importance when you called the resuscitation team. I mean you could have them there, on your interpretation, you could have them there three or four times a day to the cardiac ward. This is a team that floats through the Hospital and is available to go to any ward where there is a need to resuscitate a patient. You could have had them on your ward several times a day based on your



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interpretation.

A. I think you had to assess the situation. In my opinion it was assessed, these children were in the need of treatment, immediate treatment or immediate care, and I called a 25.

Q. What did you do, if anything, to see what the view of the proper procedure of the people responsible for the resuscitation team was?

A. What they were responsible for?

Q. No. What did you do to see what their view was about when they should be called to the situation? I presume the people involved in that team had other responsibilities in the Hospital as well?

A. Yes.

Q. So they would want to respond to Code 25s that were called in appropriate circumstances.

A. It's my opinion that they felt that the Code 25 was appropriate.

Q. When you say "the Code 25 was appropriate", are you talking about Amber Dawson?

A. When the children -- when we called for the doctors, we never heard anything, why didn't you wait or you didn't need us, or anything.



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Q. We are talking at cross

purposes, I think. Your opinion was that you could call a Code 25 that was appropriate in any cardiac emergency. Miss Nelles' opinion was, no, you don't call a Code 25 for any cardiac emergency; you call a Code 23 to bring the doctor where it is an emergency and you call a Code 25 if the heart stops.

A. That was her interpretation.

Q. That was her interpretation.

I am saying to you that you both can't be right. There had to be an approved procedure or condition that a child was in before it was appropriate in the view of the people who made up this team to respond to the situation. I am saying what did you do, if anything, to find out whether your view was right or Susan's view was right?

A. I really don't understand what you want.

Q. Did you go and ask somebody? Did you go and say, look, there is this difference of opinion here; I think we should call a Code 25 any time there is a cardiac emergency and Susan thinks, no, we don't call a Code 25; we don't bring the team then; we wait until the heart has stopped and that is when it is appropriate to call a Code 25. Did you go



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and ask anybody? Did you seek out that answer from anybody to give it to you , involved with the resuscitation team?

A. Yes, I did.

Q. Okay. Who?

A. I spoke to Janet Bede, who was a clinical specialist on the floor.

Q. Was she on the resuscitation team?

A. No. She is just the specialist on the floor, and I had spoken to Dr. Colm Costigan.

Q. He is on the team?

A. Well, he was an ICU associate that would come during the arrest. So, yes, he would be part of the team on some nights.

Q. Did you go with Susan Nelles when you spoke with him?

A. I remember speaking to him in the conference room and there was a supervisor --

Q. Is this in the context of one particular arrest?

A. Yes.

Q. Who was that?

A. I can't remember who the baby was, but it was after an arrest, after a 25 had been



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called.

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Q. What did you say to him?

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A. I remember asking him --

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actually he was concerned at that time with the
arrest team doing everything that they could do, and
he felt that they were getting there on time and they
were doing the best they could, and if we had any
other suggestions for them.

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Q. I appreciate that. My

question is: Look, what did you do to resolve the
very precise dispute which you and Susan Nelles had
at the time of the death of Amber Dawson? What did
you do to go and find out who was right on this
question of when you called a Code 25?

A. Well I did speak to Janet

Bedè - she is not a doctor.

Q. Did you not think it would

be appropriate at that time to get the official
position of whoever was responsible for the
resuscitation team as to when it is appropriate to
call them?

A. No. I believed that it was
a cardiac emergency and no one ever had said anything
from the team about it, so I didn't really perceive
it to be any problem.



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Q. Well Susan said something about it because she had a dispute with you very early on when Amber Dawson died.

A. Well I know Susan had, and Susan and I had spoke about it, and that is when I realized that her opinion of the 25 was a complete cardiac arrest.

Q. And quite different from your opinion?

A. Mine was a cardiac emergency, when a child gets into severe difficulty.



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Now I didn't call Code 25s on someone who may have aspirated or, you know, was choking. I called them when I had assessed the situation, had done vital signs and felt that this child needed the treatment that could be provided from an arrest team.

Q. We are getting to the area where I am concerned, and that is inasmuch as you realized early on at the time Amber Dawson arrested that there was a difference of opinion between yourself and Susan Nelles on a very important point, what you call and when it is appropriate to call various codes. At that point my question to you is did you not feel it would be appropriate at that time to seek out the official position of whoever was responsible for the resuscitation team?

You have said you talked to Janet Bede, not a member of that team. Did you do anything else that you felt was appropriate?

A. I spoke to the head nurse but I did not speak to any of the members of the cardiac arrest team.

Q. Well, did you not feel that would be the sensible thing to do in a situation like that to find out if you were right?



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A. No, I didn't.

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Q. Well, was that because after speaking to Susan Nelles and hearing what her view was as to when you called the Code 25s and Code 23s that you felt less than confident in your own position?

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A. I think it would be fair to say that we had lost, you know, three or four, five children; three children, two arrests, before Amber Dawson, and when these children got sick, they went, they deteriorated very fast. Now I felt more comfortable with the arrest team there that could provide the treatment for that child.

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Our residents can't intubate children on the floor. The anaesthetist has to come, and an anaesthetist is part of the arrest team.

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Q. Well, you may --

A. And there are medications that can be given before the actual arrest to maybe prevent it or -- and I felt it better to have the people up there that could make those decisions. We couldn't.

Q. You may have felt it better to have the people there and more comfortable, but I



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take it it wouldn't be a desirable situation to have the arrest team assembled and standing around when the situation really didn't call for it. I wouldn't think they would be too pleased about that.

A. I was dealing with children's lives here.

Q. Yes.

A. And if I felt they needed it, then I felt very comfortable having them up. If they came up after my call and it wasn't necessary, then that was even better, that we didn't need them. At least they were there in case we needed them.

Q. But you didn't seek out their view as to whether that was the appropriate thing to do?

A. I really didn't see the need to.

Q. You have said that you spoke to Dr. Costigan at some point about this question of arrests. What prompted you to speak to him about it? Had there been another disagreement with Susan Nelles about calling a Code 25 or a Code 23 in that particular case?

A. No, there wasn't.



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Q. What was it that prompted you to speak to him?

A. Dr. Costigan had come down to the conference room with myself and a supervisor. We hadn't called him or asked him to come. He knew we were going down there and he came down after they had finished up on the floor to see how the team was and how we felt about it and to offer any suggestions that he had and see if we had anything.

Q. Was this after a particular arrest I take it?

A. It was after a child had arrested, yes.

Q. Yes.

A. But I can't remember the name of the baby.

Q. Had there been something about that arrest that prompted him to come down and seek you out to see how you felt about it or to seek your views?

A. My understanding was that the cardiac arrest team itself over several of the arrests were feeling that they were being very -- feeling very frustrated that they weren't reviving these children, and they were wondering if there was anything



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they were doing or could they have done something earlier or was there something that the nurses on the floor felt that they could be doing, and Dr. Costigan was just relaying these feelings from the cardiac arrest team or the members that he knew and asking us if we had any other ideas or any suggestions.

Q. So this discussion with him was more of a general discussion about the lack of success in reviving patients when the resuscitation team had been called and suggestions as to whether anything could be changed in that regard?

A. Yes.

Q. You were asked as well by Mr. Lamek about your recollection of preparing certain drugs used in arrest situations and putting them out in a child's room prior to the arrest, and I think the drugs that were referred to at that time were bicarbonate, calcium and adrenalin?

A. Yes.

Q. These are drugs commonly used during resuscitation efforts?

A. That is correct.

Q. Now again you see the significance of this particular area inasmuch as where a child has died in circumstances that can be described



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as suspicious, if someone has in advance of the arrest prepared drugs to be used during the arrest, it is again open to an interpretation - I am not saying the only interpretation - but an interpretation that that person knew something about the child's condition that others didn't.

A. Those drugs were drawn up for children that were potential arrests.

Q. You have said that this wasn't an unusual procedure.

A. No, it wasn't unusual.

Q. And I think you indicated to Mr. Lamek that to your recollection Mrs. Radojewski had done it although you couldn't recall any occasions?

A. No. I know it was done up on 5A, and I can remember Liz Radojewski drawing them up on 4A for a specific baby. I can't remember who it was for, though.

Q. You said that you yourself had done it although you couldn't recall any specific occasion?

A. If they were drawn up on the day shift or the previous shift before and in report the child was still unstable or still they felt to be potential, yes, we would continue to keep the



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medications at the bedside.

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Q. You suggested that this drawing up of the drugs would even be done at the outset of the shift before the child had necessarily shown any signs of difficulty?

A. No. I think what I was saying is that the drugs were drawn up on the previous shift before; when our shift came on, and we felt that the need was still there or the report was that the child was still a potential, then we would discard the drugs that had been drawn up on that previous shift and draw up our own drugs and leave them at the bedside. The drugs were good for 12 hours.

Q. Well, all right. Perhaps you are not saying anything different. Your suggestion, as I understood it, was that at some point the decision may well be made at the start of the shift to draw up the drugs for a potential arrest and that if the conditions were still such at the end of that shift, the nurse coming on the next shift may draw up new drugs because the old ones had expired in terms of their currency, and kept those available during the next shift as well?

A. That would be correct.

Q. All right. Now again the



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question arising out of that is why before a child was in any sign of difficulty at all would someone draw up drugs that would be used only in the event of an extreme situation occurring?

A. Why would somebody draw them up before the child...?

Q. Before there was any sign of difficulty at all.

A. I don't believe that they were drawn up if the child wasn't known to be in difficulty. These drugs were drawn up because the child exhibited signs or symptoms of a potential arrest. The children were critically ill.



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Q. Well then you would draw them up for all the children as a matter of course, wouldn't you?

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A. No. There were some children that may have needed some bicarb for a respiratory failure or respiratory arrest. There would be children that would be a potential that could arrest at any minute.

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Q. The type of child who would be on constant care?

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A. Yes, they could have been, yes.

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Q. Were they drawn up for Justin Cook?

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A. No, they weren't, those drugs weren't drawn up, we had Inderal taped to the bedside.

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Q. Right. Why would the other drugs not be drawn up. First of all, you specifically recall that do you, in the case of Justin Cook, the drugs weren't drawn up prior to the shift?

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A. They weren't drawn up, no.

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Q. Prior to the shift, the start of the shift?

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A. No, they weren't.

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Q. And you specifically recall that?



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A. Yes.

Q. All right. And my question to you is, it sounds to me like he is a perfect candidate for it on the criteria that you have suggested was applicable to this procedure that wasn't unusual.

A. I don't think we viewed Justin Cook as being a potential arrest at any minute. He was a sick baby, he was prone to having blue spells. I don't think the concern was that he would arrest, he would have a cardiac arrest.

Q. Can you tell me how you distinguish then in a cardiac ward where the children are all extremely ill as a result of a disease between which child on constant care you would draw them up for and which ones you wouldn't? It seems to me the mere fact the child is on constant care suggests there is a concern that the child may get into difficulties and arrest.

A. There is always that concern with the children on the floor.

Q. Especially the ones on constant care?

A. Constant care can be ordered for the child due to heavy treatments as well, that the child has a lot of medications, he has several



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IVs, he's on vital signs, q 15 minutes or q half
an hour or q an hour, that it would take up a lot
of nursing hours so that one nurse may be assigned
to that child.

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Q. You have said there was always
a risk or chance with the children on the ward, they
were going to go into arrest. I am saying if that
is the case then surely a child on constant care
it is even more critical?

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A. No, I can't agree with that.

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Q. So while there is a general
concern that the children on the ward because of
their disease could go into a serious condition and
arrest that there can be a distinction made between
those on constant care?

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A. I'm sorry?

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Q. Well, you have said there was
always the concern with all the children on the ward
that they could go into a serious spin and have an
arrest.

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A. Yes.

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Q. All right. I am saying, yet
you are drawing a distinction between children on
constant care as to which ones might be a candidate
for an appropriate precautionary procedure such as

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drawing up these drugs which you say isn't unusual.

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A. The children would be assessed and if the need was felt that the drugs should be available at a moment's notice then they would be drawn up.

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Q. Was this a thing then that you did when you came on the shift, the start of your shift as the team leader you assessed which children you should draw up the drugs for in advance as part of your routine?

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A. No, it wasn't.

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Q. Well then how did that decision get made on a day to day basis?

A. It may have been made by the head nurse by going on rounds with the doctors, that they were concerned about this child. They could have been drawn up the previous shift before and we were told about it in report. They still felt that the child was unstable and critical and we would continue with the drug, we would have medications there, since they were already there before, we would continue that.

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Q. And so at some point though you would make the conscious decision to continue that?



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A. Yes, after speaking to either the nurse that had the child during the day, the team leader during the day or the nurse that had the patient at night.

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Q. All right. I am saying to you then inasmuch as you had to at some point make that conscious decision, was it a part of your check list, your mental check list even as you were starting out the shift and assessing the babies to decide whether or not it would be appropriate with respect to this child or this child to draw up the drugs in advance?

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A. No, it wouldn't have been.

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Q. Well then how did it come to your attention, what caused you to enter into this process to make this decision?

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A. I don't recall the drugs being drawn up on a lot of these children. If they had been drawn up and we felt as a team or on the advice of a physician that night that there was still a potential for these children then they would be drawn up. It wasn't something that we sat down and went through every night which child shall we draw up drugs for.

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Q. But you have said it wasn't an



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2 unusual procedure, it was something that was done
3 in cases --

4 A. What I am saying, it was not
5 unusual, when Mr. Lamek had asked me, for these drugs
6 to be at a bedside, that was not unusual, I know
7 that it had been done, I know that is has been
8 suggested. It wasn't a regular routine on our floor
9 but it was not an unusual event to have them there,
10 nothing strange about it.

11 Q. Nothing unusual about it but
12 you are unable to recall for us any case where you
13 made the decision to draw those drugs up and have
14 them available?

15 A. I am unable to recall that,
16 yes.

17 Q. Now, we have heard evidence,
18 and indeed I think we have been made aware of it
19 during your examination in chief to the effect that
20 other nurses perceived you to have a preoccupation
21 with the deaths that became unsettling and some of
22 it was referred to, and I tell you that that evidence
23 to that effect is certainly considerable, it comes
24 from Nurses Costello, Bell, Johnstone, Radojewski,
25 Christie and Scott; I can provide the page references
if my friends wish.



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3 Your response to that was that you
4 weren't aware that you were harping on it, that is,
5 the deaths, and going on and on, and there was
6 evidence from Mrs. Johnstone that was I think read
7 to you by Mr. Lamek to the effect that even after
8 Susan Nelles had been arrested in March, on into the
9 next year, that you talked so much about the deaths
10 and the police investigation that she stopped seeing
11 you socially because she found it so discomfoting.

12 Now, you have indicated that you just
13 simply weren't aware of this fact that you were
14 harping on it or going on and on. Does it surprise
15 you, thinking back on your conduct, that others
16 viewed it that way?

17 A. I think I have to clarify it.
18 Up until March 12th when Mr. Lamek had asked me the
19 question I thought what the nurses were saying was
20 that I was preoccupied with death and the cardiac
21 arrests.

22 Q. Yes.

23 A. But I think what you are saying
24 is that I was preoccupied with death and Susan Nelles'
25 arrest.

Q. No, no, I am suggesting it was
even asked after Susan Nelles was arrested that you



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3 were still preoccupied with the deaths to the point
4 that even in the next year the evidence that was
5 read to you by Mr. Lamek, Mrs. Johnstone stopped
6 seeing you socially because she found it so
7 unsettling. I'm saying that's the evidence that we
8 have heard as considerable with respect to your
9 preoccupation with these deaths, it indicates it
10 went on for a long period of time, for long after
11 the time when Susan Nelles was arrested. Your
12 response was that you simply weren't aware of the
13 fact that you were harping on it or that you were
14 going on and on.

15 Now, I'm asking you, are you, looking
16 back on your behaviour in this period, are you
17 surprised that others took this view of your
18 preoccupation with death?

19 A. Yes, I am.

20 Q. Because you don't view yourself
21 as having that kind of a preoccupation with the
22 whole thing.

23 A. Well, in January after Susan
24 Nelles' arrest in March I can remember talking a
25 lot about the arrest of Susan Nelles.

Q. Her arrest. We're not talking
about that right now, we are talking about deaths.



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A. No, I didn't, I really can't remember talking about deaths or cardiac arrests after Susan Nelles' arrest except for maybe the children that she had been charged with.

Q. Did you think you talked about them to the point people would feel you were preoccupied with it?

A. No.

Q. So, this does come as a surprise to you that others viewed your behaviour as amounting to a preoccupation with this whole situation of deaths in the Hospital?

A. Yes.

Q. Well, did you ever try to buy digoxin over the counter in a pharmacy?

A. No, I never attempted to buy digoxin, I enquired about it.

Q. And did you do that with Miss Frise?

A. Yes, I did.

Q. And that was some time after Susan Nelles was arrested, was it?

A. Yes.

Q. When was that? Was it on into the next year?



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A. I thought maybe June, June or
July maybe.

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Q. June or July of what year?

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A. Well, the same year that
Susan was arrested, '82?

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Q. '81?

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A. '81.

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Q. It could have been later
though?

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A. It could have been later, yes.

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Q. You're not really sure of
the time?

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A. No.

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Q. So, as I understand it you,
along with - you were having lunch with Miss Frise?

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A. And Lynn Johnstone.

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Q. And the topic was concerning
digoxin and the role that it played in the deaths
and where one could get digoxin and how one would
go about?

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A. No, it wasn't the whole topic.

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I had been interviewed by the police on two
occasions I think prior to that and they had asked
me was it possible for someone to build up their
own supply and I said I didn't think so unless

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2 digoxin was open on our floor. They then asked,
3 could we buy it over the counter, could someone go
4 and buy it and I said not to my knowledge, I thought
5 digoxin was a prescription drug. They asked, are
6 you sure and I said, well, I'm pretty sure, I have
7 never heard of anybody getting digoxin and I have
8 always seen it written out in prescription and he
9 said, well, you're sure then that you can't and I
10 said, well, I'm pretty sure.

11 That night I had gone to work and we
12 were at the nursing station and I had asked Bertha
13 Bell. I said, you can't buy digoxin without a
14 prescription and she said no, she didn't think so.

15 Dr. Michael Schaffer was on the floor
16 as well during a conversation and he said that years
17 ago, or, I can't remember how many years, two, three
18 years ago the drug was not a prescription drug, that
19 if you looked in the pharmacy book that it didn't
20 have a little 'p' on it to say that it was prescrip-
21 tion and that you could buy it over the counter.
22 I was surprised, all through my nursing career
23 I have always believed it to be a prescription drug.

24 Then we went out to lunch with Lynn
25 Johnstone and Meredith Frise and I asked Lynn, did
she know that it is a prescription drug and she



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2 thought it was as well. I then told her about Mike
3 Schaffer telling us, Bertha and me and there was
4 a couple of others at the station, that years ago
5 it wasn't and she said that she was surprised.

6 We finished lunch and we were walking
7 by a drug store and Meredith had said, well, I guess
8 we could find out here and I said, well, yes, the
9 pharmacy is there, I guess we could ask the
10 pharmacist. I said to Meredith you ask and she said
11 no, you ask. I went up and I asked the pharmacist
12 can you buy digoxin without a prescription and I
13 thought he had said no, you can't. The police had
14 asked me again on another occasion and I had told
15 them that, no, I had gone to the pharmacy and they
16 had said no.

17 Q. All right. So, the police
18 had asked you I take it in the course of the
19 interview whether you knew if people could acquire
20 digoxin without a prescription?

21 A. Right.
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Q. And you pursued that with your colleagues on the ward?

A. Yes.

Q. And then you pursued it to the extent of going to a pharmacy and enquiring of the pharmacist as to whether or not you could get digoxin without a prescription?

A. Yes.

Q. And you are not suggesting that the police asked you to do this in some sort of an undercover capacity, are you?

A. No. What I am saying though is that the police were insistent on "do you know for sure? Are you positive?"; and I wasn't positive then when they kept asking, so I had asked the girls on the floor and it was our opinion that it was a prescription drug.

Q. Let's be quite clear. Are you suggesting to us that the police are the ones that put you up to going to see if you could buy digoxin over the counter, or was this your own - pursuit?

A. No, they didn't ask me to go to a pharmacy and ask. But they had asked.

Q. They asked you and you were sufficiently interested in it that you pursued it



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with your colleagues and you pursued it with the pharmacist?

A. I had given the police an answer and I wanted to make sure it was correct.

Q. You wanted to conduct your own investigation into the availability of digoxin?

A. I wanted to make sure that my answer to the police was correct, I wasn't sure.

Q. So you wanted to conduct your own investigation to verify your answer?

A. Well I wanted to ask and I did, and if that is an investigation, then yes, I did.

Q. You don't consider that a bit of a preoccupation with the subject of digoxin and the deaths that were attributed to it at the hospital?

A. No, I don't. I was asked on several occasions from the police about this drug and the information I was given and I wanted it to be correct.

Q. Do you think that you sought attention of others during this period, this nine month period at the hospital? Did you view yourself as an attention seeker?

A. I asked questions. I wanted to know answers. If that came across as seeking



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2 reassurance I can't really dispute it, I had a
3 team of girls that were coming to me and asking me
4 questions and I had to give them answers.

5 Q. I am not talking about seeking
6 reassurance. My question was, did you view yourself
7 as an attention seeker?

8 A. No, I didn't.

9 Q. Did you feel that you needed to
10 be at the centre of things, the centre of what was
going on on the ward?

11 A. No.

12 Q. Because you see we have heard
13 evidence from Nurse Costello that you carried
14 on so much about these deaths, and you got lots
15 of attention as a result of it, so much so that
16 other nurses were upset because you were getting the
17 amount of attention that you got. Does that feel
familiar to you?

18 A. I think the attention went to the
19 Trayner team.

20 Q. That is not the evidence we have
21 from Nurse Costello at Volume 96, page 1550 - 1559.
22 It was that you, you, not the team, you, Phyllis
23 Trayner, were carrying on so much about the deaths
24 and getting so much attention as a result of your
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carryings on that other nurses were becoming upset with you. My question to you is, does that feel familiar, does that accord with your recollection of the situation.

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A. Maybe to a small degree, yes.

The questions I was asking and the reassurance I would be seeking was not only for me but for the team, and it may have come across for me.

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Q. Well you knew, in any event, that you were personally getting a lot of attention from others during this period of time, is that what you are indicating now?

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A. Well I knew I asked a lot of questions.

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Q. I am not just talking about the questions there Mrs. Trayner. We have heard evidence about you were upset at the deaths, about your crying after the deaths, and continually seeking reassurance along with those things. It is not just a case of your asking questions, it is a case of your "carrying on" is the phrase Miss Costello used. You carried on to the extent that other nurses were upset with the amount of attention you were getting. That is what I am asking you, if it feels familiar.

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A. Yes.



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3 Q. Now we have also heard from
4 a number of others about your reaction to the taking
5 of a sample of Justin Cook's blood by Dr. Jedeikin
6 after he had died, and this is an area of really
7 stark contrast between the description that they
8 have given of your behaviour and your own recollection
9 of it. We have heard, and I am referring to the
10 evidence of Nurses Johnstone, Radojewski and Nelles,
11 to the effect that you were extraordinarily agitated
12 by the fact that Dr. Jedeikin took a sample of Justin
13 Cooks' blood after he had died. Your evidence is
14 that you don't remember seeing him take this sample
15 from Justin Cook; that you can't recall any particular
16 concern or puzzlement about the taking of a post
17 mortem sample; and you have no recollection of being
18 particular agitated about that. I am referring to
19 Volume 132, page 793 and following. Now, you see
20 what I mean by the stark contrast between the
21 evidence we have of your reaction from the others
22 and your own evidence of really no recollection of
23 any puzzlement or agitation at it. Do you not
24 recognize any truth in what the others have said,
25 does it not feel familiar to you now looking back on
it?

A. Well I said I was upset with



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2 what had happened that night. I did say that I
3 couldn't remember specifically being upset about
4 the post mortem blood, but I can clearly remember
5 asking Dr. Jedeikin what was going on and asking Dr.
6 Fowler, and being upset for the whole - because of
7 the events of that Saturday night and nobody giving
8 any answers. I again had people asking me what was
9 going on.

10 Q. I have to deal specifically with
11 you on this because that is the way the witnesses
12 dealt with it. The evidence was that you were
13 extraordinarily agitated about a specific event,
14 that is the taking of blood from Justin Cook by
15 Dr. Jedeikin after he had died. You have said that
16 you don't have any recollection about any puzzlement,
17 or concern, over that specific event, the taking of
18 blood. You have no recollection of feeling particularly
19 agitated about that. I am suggesting to you that is
20 in stark contrast between the evidence of other
21 witnesses on the one hand and your recollection on
22 the other. I say to you does it not feel familiar to
23 you when you hear what they had to say about it?
24 Do you have no feeling of familiarity about that
25 account of your behaviour that night at all?

A. No, I don't.



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Q. Has this happened to you before where other people can remember behaviour of yours and characterized it in a particular way where you have no recollection of that?

A. I really don't know what you want, what answer.

Q. Well we have a case here, we have had other cases through the evidence where you have no apparent recollection of a reaction, or acting in a particular way as a result of something where others have characterized it quite graphically. I am asking you, is this something you have encountered before where others are characterizing your behaviour and you have no recollection of acting in a particular way?

A. I think you have to take it as it being their interpretation, and you have to take it - for that point.

Q. We have heard the evidence of Bertha Bell.

A. Yes.

Q. About observing you administering something to the buretrol of Allana Miller and at a time when she has fixed it, somewhere around midnight, and you have indicated that she saw that, that was



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2 the 1:00 o'clock gentamicin administration?

3 A. Yes.

4 Q. When you heard of Bertha Bell's
5 evidence to that effect, that you had administered
6 something to the buretrol of Allana Miller at about
7 midnight, when you first heard of that were you
8 shocked by it?

9 A. No, I wasn't.

10 Q. Did you know it was coming?

11 A. No, I didn't.

12 Q. Why were you not shocked by it?

13 A. I had thought that Bertha was
14 just wrong on her times. Because I knew I gave the
15 1:00 o'clock gentamicin and I had said that to the
16 police, and at the preliminary hearing, and I was
17 sure that Bertha had just mistaken on the time.

18 Q. Were you also aware of the fact
19 that she had indicated that this was something that
20 she had remembered subsequently to the preliminary
21 hearing, something she had not testified to at the
22 preliminary hearing, but that she now had a
23 recollection of? Surely you must have appreciated
24 that she was now testifying to an event where she,
25 mistaken or not, in your view, had fixed the time of
your administration of something to Allana Miller at



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a time when nothing was supposed to be administered.

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THE COMMISSIONER: Yes Ms. Symes.

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MS. SYMES: With respect Mr. Commissioner,
that is not exactly a fair statement of Mrs. Bell's
evidence with respect to the answer that she gave in
cross-examination to Mr. Cooper, in which he asked
a two part question of her with respect to whether or
not she was aware of the fact that Mrs. Trayner had
in fact administered gentamicin into the child, and
there is an answer "yes" to a two part question.

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MR. HUNT: I think we went through
this all --

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THE COMMISSIONER: I am sorry, I was
looking at Mr. Thomson. Have you anything --

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MR. STRATHY: Actually Mr. Commissioner
I was going to rise on this a little bit earlier.
I think when Mr. Lamek was examining Mrs. Trayner
in relation to this he quite fairly and properly
pointed out that Nurse Bell's evidence was that it
may have been 12:00 o'clock but later on in cross-
examination she said it could have been at a later
time. So I don't think, with all respect, Mr. Hunt
is being quite fair to the witness.

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THE COMMISSIONER: Yes, that is my
recollection. Her initial evidence as I understood



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it, the time the child was being taken to the echo lab and that we have established was shortly before 12:00 o'clock.

MR. STRATHY: Yes.

THE COMMISSIONER: And at some later time during the course of her cross-examination she indicated it might have been gentamicin.

MR. STRATHY: That's right at the later time.

THE COMMISSIONER: Which was at 1:00 o'clock. Well now Mrs. Trayner, with the benefit of all of that information, and the question is still outstanding, is it not?

THE WITNESS: Would you repeat the question.

Q. So were you not shocked when you heard her describing to you the act of administering something to Allana Miller on her evidence, and you have heard it at least in part, at midnight or before midnight.

A. No, I wasn't surprised. I really thought Bertha was just mistaken on the time. I knew that I had given Allana Miller a drug at midnight or 1:00 o'clock and I was there and I wasn't very surprised at all, no.



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Q. And you didn't know that that evidence was coming?

A. No, I didn't.

Q. You spoke to her on the telephone a week before she testified here, did you not?

A. I spoke to her, I think it was on the Friday before she was coming, yes.

Q. I think she indicated that you called her?

A. Yes.

Q. At least once during the latter part of the week before she testified, which would be I think, as you recall it, sometime around the Friday?

A. Right.



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Q. That was at the point in time when she was I think being interviewed by Commission Counsel to give her evidence. I am sure she mentioned that to you.

A. No, she didn't.

Q. Well, why did you phone her?

A. I had heard that she was up next for the Commission, and I had just called her to say "We'll be thinking of you".

Q. To sort of renew acquaintances with her?

A. No. I was supposed to have gone -- I think I was supposed to go over the week before and I hadn't, and I just phoned to say hello and "I hear you're up on Monday and our thoughts will be with you."

Q. Did you talk to her once or twice that week?

A. I really can't remember. I know it was the Friday before she went up on the Monday.

Q. You can't remember so you are saying it could have been more than once?

A. It may have.

Q. Did she talk about the



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F2 2 experience she was going through of being interviewed
3 by Commission Counsel in order to give evidence?

4 A. No, she didn't.

5 Q. Did she tell you what she
6 was anticipating by way of the evidence she was going
7 to give the Commission?

8 A. No. We didn't talk about the
9 Commission or anything except to -- I wished her luck.

10 Q. There was no discussion then
11 about this piece of evidence of you administering
12 something at midnight or therabouts?

13 A. No, there wasn't.

14 Q. Did you discuss that with her
15 since?

16 A. No, I haven't spoken to her
17 since that Friday.

18 Q. You haven't spoken to her
19 since before she testified?

20 A. That's correct.

21 Q. When was the last time you
22 spoke to her prior to the Friday before she testified?

23 A. It may have been the week
24 before. I was invited over for lunch and I remember
25 that I couldn't make it that day and I had called her
back.



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Q. So you two shared a social relationship over the years I take it?

A. Yes, we have.

Q. And this continued through right up until the last conversation you had with her on the Friday before she testified?

A. Right.

Q. Would this social relationship have you talking together on the phone once a week, twice a week?

A. Probably once a week.

Q. And this has gone on for some number of years I gather?

A. Yes.

Q. And then it all of a sudden stopped when she gave that evidence?

A. Yes. I haven't spoken to her since that time.

Q. Did that have anything to do with the evidence that she gave?

A. I was advised not to speak to anybody that would have to be testifying at the Commission.

Q. All right. I take it then after that point in time you followed that advice and



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that is why you haven't spoken to her?

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A. Yes.

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Q. Prior to that you were talking to her on a fairly frequent basis?

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A. That's correct.

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Q. And during those times you talked before she gave her evidence did you discuss the evidence that had been given at the Commission that you were both aware of?

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A. No, I don't recall we had.

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Q. She indicated, Volume 100, page 2771, that from time to time the two of you may have spoken about the evidence that was given at the Commission.

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A. If we did, it was in passing. She told me that the RNAO was having a meeting and a get-together on the update of the Commission and would I like to attend and, yes, I would, and the RNAO had sent in, you know, summaries of what was going on. But I was getting all the information I needed from my lawyer and the media was covering it, so there really -- if we spoke about the Commission, it was just in passing.

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Q. In any event on the Friday before she testified there was no talk about the



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Commission?

A. The only thing I said to her was "I hear you're up on Monday. Good luck. My thoughts are with you. I'll be thinking of you."

Q. But no discussion with respect to the evidence she was to give?

A. No, there wasn't.

THE COMMISSIONER: If you want to rise now?

MR. HUNT: I was going to go into a new area.

THE COMMISSIONER: Yes. All right. We will take our break now.

--- recess.

--- on resuming.

THE COMMISSIONER: Of great importance but no particular interest to most people is that the Chairman of the Municipal Board has extended our lease very kindly to the 11th of May, which is a Friday. In the ordinary course, the 10th of May will be our last day here. After that, we are moving upstairs to much smaller, much more cramped quarters. I am sincerely hopeful by that time no one will have any interest in us whatsoever. Perhaps if you feel me trying to wind down Phase I



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by the 10th of May, you will understand what is
happening.

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All right, Mr. Hunt.

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MR. HUNT: I will certainly be
finished by the 10th of May!

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MR. LAMEK: Promise?

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MR. HUNT: Q. Now, Mrs. Trayner,
you told us about the reason why you were giving the
gentamicin to Baby Miller at one o'clock for Susan
Nelles. You said at Volume 132, page 613, that just
before she went down to the echo lab she told you
about the antibiotic that was running through the
buretrol at that time and that it would be due to
finish within 15 minutes or so and that she told you
that she had to give another medication but she
didn't know what the medication was or what time it
was to be given and could you check for her.

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A. Right.

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Q. Right. Okay. So it was
obvious at that point when you were talking to her
that she didn't know what was to be given to Baby
Miller in the upcoming hours?

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A. Right.

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Q. And she wanted you to check it?

24

A. Right.

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F7 2 Q. She didn't have a note of that
3 apparently.

4 A. She probably had a note in
5 her pocket but she didn't have an instant recall of
6 what was to be given.

7 Q. Well, if she had a note in
8 her pocket, wouldn't she have pulled out her crib
9 sheet and told you what medication was to be given
and what time?

10 A. She had Justin Cook in her
11 arms and was taking him over to the echo lab.

12 Q. Yes.

13 A. I was covering the floor, the
14 patients for her, and she was just filling me in on
15 her patients because she wasn't going to be there for
15 minutes, half an hour.

16 Q. I am suggesting to you, ma'am,
17 that if Susan Nelles had either known or had a note
18 on her person at the time she asked you to look after
19 the future doses of Allana Miller, she would have
20 either told you what medication and what time or she
21 would have taken out her note and read to you from it
22 to inform you as to what medication and what time.
Doesn't that seem reasonable?

23 A. No. She knew the medication
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F8 1
2 was running through the buretrol. She knew that the
3 medicine was going to be finished within a few minutes.
4 She knew she wouldn't be there to check the IV. She
5 also knew at that time that another medication was
6 due, but she wasn't sure of the time of the medication
or what it was to be given.

7 She had Justin Cook in her arms. She
8 was giving me this little report on her patients and
9 being the team leader it is my responsibility to make
10 sure that the care is kept up if the nurse has to be
11 called away.

12 Q. I appreciate all that. I am
13 just suggesting to you doesn't it seem reasonable if
14 she had a note on her crib notes as to what medication
15 and what time, it would have been the simplest matter
for her to tell you that right then?

16 A. I don't think -- well, I don't
17 think she even thought of that. It is very simple for
18 me to check Allana's chart or check the medication
19 ticket.

20 Q. Right. Creating the possibility
21 that you might miss the dose of a particular drug that
22 she had recorded on her crib notes could you check
the chart or something else.

23 A. When she told me that another
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drug was to be given, I checked the medication tickets and saw that there was a ticket for Allana Miller in the one o'clock slot.

Q. Well, I am just suggesting and using your words, she told you that she had another medication to give, "She didn't know what medication it was or what time it was to be given, and if I could check that for her." Those are your words on page 613.

A. Right.

Q. Now if she had a note on her crib notes as to what medication and what time, I'm suggesting to you it is reasonable that she would have taken it out at that time and told you what medication and what time.

Now that's all. If you don't want to agree that would have been the reasonable thing for her to do, then just say so.

A. No, I don't. Her hands were full. She was holding Justin Cook.

Q. All right. So you say in any event that that is why you checked the medication for her in such a careful, deliberate way?

A. Yes.

Q. Because you were afraid that



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F10 2 she would forget that you had given the dose and she
3 would check her crib notes and see that she had a
4 dose recorded there and maybe would give a second
5 dose?

A. That is correct, yes.

6 Q. So you recall now that she
7 told you she didn't know what time or what drug? You
8 recall that now?

9 A. Yes.

10 Q. You told us that the other
11 day. I suggest you recall that quite clearly that
12 night?

13 A. Yes.

14 Q. And it must have been apparent
15 to you that Nurse Nelles didn't have any idea what
16 drugs she was going to be giving or at what times,
17 so the chance of any duplication by her was very small?

18 A. She didn't know what time the
19 drug was to be given.

20 Q. That's right.

21 A. I can speculate and say she
22 felt the drug had to be given at midnight and that
23 since she wasn't going to be there, could I check to
24 make sure that the drug was given.

25 When I knew that the gentamicin had



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2 to be given and it was given at one o'clock, when
3 Susan Nelles had returned from the echo lab, she was
4 busy, as I could see, with Justin Cook. She was
5 trying to settle him and feed him as well.

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I can't remember what I did, whether I went in and said Allana Miller is due the gentamicin at 1 o'clock, do you want me to give it to you or did she suggest it to me, I don't know. Checking it with her was to avoid duplication after 1 o'clock.

Q. Right, because you were afraid she might look on her crib notes and see she had a dose to give and give another one?

A. Well, yes, I wanted to impress upon her that I was giving this medication and that she would be assured that it was given.

Q. Didn't it strike you at the time when you were about to go down and show that that, geez, she probably doesn't have a note of it or she wouldn't be asking me to find out what it was and what time it was to be given.

A. No, it didn't occur to me.

Q. The other reason you gave for going out of your way to check this dose at 1 o'clock with her was that because of the concern about a possible inquest into the death of Baby Pacsai there was a heightened concern on the ward about drugs that were given and being sure that one was correct?

A. Well, we knew the inquest into Pacsai may be a reality.



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Q. But you have suggested that

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that is another reason why you went out of your way

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to check the drug so carefully with her was because

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of this heightened concern about drug administration

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and the Pacsai inquest?

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A. But that was a very small

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concern.

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Q. Did you check any of the other

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drugs that you gave that night with any other nurse?

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A. Well, I would have had my

12

medications checked. I can't remember who I gave

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medications for that night but being the only other

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RN on the floor other than Susan Nelles, yes, I

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would have had the digoxins checked. If I was

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giving any Inderal that would have been checked.

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All the medications that we usually check on our

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floor would have been checked by somebody else.

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Q. Well, did you go out of your

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way to check them the way you did with the gentamicin?

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A. Well, I can't recall what

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medications I gave that night. I know I had to go

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over to Bertha Bell to get her to check the medications

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for me.

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Q. So, am I correct the only one

you can recall that night was the gentamicin dose



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that you checked with Susan Nelles?

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A. Right.

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Q. Well then I suppose the purpose

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or the effect you hoped to get from checking it so

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carefully with her has indeed been achieved because

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the one thing you wanted her to remember was that

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you were telling her at 1 o'clock that you were

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giving gentamicin to Baby Miller?

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A. That's correct.

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Q. And that is certainly one

thing that she has remembered.

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A. Yes.

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Q. And one thing that you have

14

remembered.

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A. Yes.

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Q. Indeed, the only drug

administration check that you can remember?

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A. That's right.

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Q. Now, there was one conversation

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that you talked about that I just want to be clear on.

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You said after Baby Cook died you and Nurse

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Radojewski and Susan Nelles went down to the

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coffee shop and for 20 minutes or a half an hour

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you had a coffee.

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A. That's correct.

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Q. And at this point in time you had two deaths in two nights, that's Baby Miller and Baby Cook.

A. Yes.

Q. Right, the digoxin had been locked up on the ward on the Saturday night.

A. Yes.

Q. Right, and then we had had this strange taking of a postmortem blood sample from Baby Cook by Dr. Jedeikin immediately before you went down.

A. Yes.

Q. We have heard the others accounts of your reaction to that. You said at the meeting in the coffee shop you didn't talk about the events of that night you talked about the weather.

A. Yes.

Q. Now, are you seriously suggesting to us that after all of those events in that period of time the three of you got together in the coffee shop immediately after leaving work and talked about the weather?

A. We had just had a meeting upstairs with Liz Radojewski in the dirty utility



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3 room and she was aware of everything that had
4 happened Friday night and Saturday night and early
5 Sunday morning and it was Mrs. Radojewski's
6 suggestion that we just go down for a cup of coffee
7 and relax and that's what we did. I remember, and
8 I think I told Mr. Lamek, that the only other
9 topic that was discussed was that Liz Radojewski
10 had asked Susan Nelles had she written out notes
11 on Baby Pacsai for the upcoming inquest, if there
12 was to be one, and Susan's response was, yes, I had.

13 Q. And once that had been
14 discussed then all of the events of the tumultuous
15 shift or two shifts that had just ended were put
16 aside?

17 A. Yes, they were. I can't
18 recall anything else that was discussed.

19 Q. Other than the weather.

20 A. Yes.

21 Q. Now, we have heard some
22 evidence from Janet Brownless about your reaction
23 to hearing on the television on March 25th of the
24 arrest of Susan Nelles by the police.

25 A. Yes.

Q. And as well your reaction
several days later on the Friday of that week to



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continuing news reports about the arrest and the events at the Sick Children's Hospital. She reported you as being in grief, such grief at the time you heard the account of the arrest that you were like a mother grieving for a lost child and she said your comment at that time was "Why her, why not me, I was there just as much as she was".

Now, first of all, do you have any recollection of that?

A. Well, the comment isn't complete but I do remember what Janet Brownless was talking about, yes.

Q. All right. So, there's more to the comment?

A. Yes.

Q. You can recall that?

A. Yes.

Q. All right, do you want to tell us what it is?

A. We were listening to the news and I had said to Janet Brownless, and my husband was there at the time too, "Why her, why not me, why not you and why not Bertha Bell, why not anybody, this has to be a mistake". We were all there.

Q. All right. So, you went through



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the names of the other people on the teams?

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A . Yes.

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Q. In this comment as to why not

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them and you didn't say, as she has reported "I was
there just as much as she was."?

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A. No, I said that we were all
there with Susan.

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Q. I see, it wasn't just you.

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So, this comment, contrary to what Janet Brownless
said which was basically that you were referring
to Susan Nelles and yourself that this comment on
your recollection of it was referring to everybody
individually and collectively?

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A. Yes.

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Q. Well, if that was the comment
as you have related it to us now, how would Janet
Brownless have come to the conclusion that you were
grieving about this arrest like a mother over a
lost child?

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A. I can't explain what Janet
Brownless said or thought. I remember being
extremely upset that homicide was here, that a
child had been murdered, that someone from my team
was charged with murder. It was just unthinkable,
you know, I was shocked.



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Q. You see, there is quite a stark difference between the comments you recall and refer to and the one that Janet Brownless has recounted for us.

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A. I don't really see that there is very much difference to it. I remember making --

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Q. Well, the context that she took your remarks that she recalled "Why her, why not me, I was there just as much as she was", was that you were grieving like a mother over a lost child and, quite frankly that doesn't really fit with the comments you recall.

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A. Well, Susan Nelles was a member of my nursing team.

15

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Q. Yes.

A. And was one of my nurses that was charged with murder of a baby.

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Q. Well, there was no real love lost between you and Susan Nelles over the nine months prior to that, was there?

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A. I considered Susan a friend. I admired her and I do consider her a friend.

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Q. She was the only person, as you indicated yesterday, that you had difficulty getting along with.



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A. Yes, but I don't know how to explain it to you. We had problems at the beginning, we were two different people with two different personalities. We discussed this, we talked about it and I thought our relationship was well after October, that we got along well, that we respected each other.

Q. Although, as you have indicated, your differences carried on into 1981.

A. Well, as I said yesterday that they were very slight differences about very small examples about taking a patient or admitting a patient or going to second coffee rather than first coffee.

Q. Well, coming back to the point then. We have Miss Brownless who viewed your reaction as akin to grief of a mother over a lost child, and I take it from what you are saying that that doesn't ring a familiar bell with you, that's not the way you perceived yourself as reacting to the situation?

A. I saw myself as a team leader where one of my nurses was charged with murder and that's very hard to accept or realize.

Q. I gather from what you said



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that you thought that the police had charged the
wrong person with murder, did you?

A. I thought it was a mistake,
that I couldn't comprehend murder, this was
unthinkable.

Q. Well, ma'am, is the reaction
that Janet Brownless perceived in you, grief like
a mother grieving for a lost child, accurate as far
as you are concerned on your own perception of
yourself that day?

A. I don't know if I would agree
with that statement. It was a nurse, she was a
friend and homicide was here and I really don't know
what I was feeling that day.

Q. But you don't think it was
grief like a mother for a lost child?

A. No, I don't think I would have
or could explain it in those terms, no.

Q. Because that would really be
pretty strange, wouldn't it?

A. Yes, I guess so.

Q. Given the relationship that
you and Susan Nelles had over the prior months.

A. Well, I considered her a friend.

Q. By the way, how is it that you



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recall so clearly your comment to Janet Brownless.
You have expanded on it and really changed it quite
significantly here from what she told us. How is
that you recall that?

A. I can remember saying it to
Staff Sergeant Sangster after he told me that Susan
was arrested for first degree murder.

Q. I see. You told Staff
Sergeant Sangster what you had said to Janet Brownless?

A. Staff Sergeant Sangster told
me that Susan Nelles was charged with murder and I
said that that can't be possible, I was there all
night with Bertha Bell and everybody else, there
has to be a mistake. You have to understand that
when the police came to my house that morning they
had told me that this was an investigation and that
there were teams going out to everybody on our
nursing team.



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Q. I'm sorry, I don't want to cut you off on anything that you want to say, but are we talking about the same conversation here? I have been asking you about your recollection of a conversation with Janet Brownless.

A. Yes, I am. I'm trying to explain it.

Q. You are telling me about something you said to Staff Sergeant Sangster?

A. Yes.

Q. Which I take it must have been well before Janet Brownless arrived at your house?

A. It was an hour before.

Q. All right. Let's go back, if you will, to my question. How is it you recall so clearly for us --

MR. THOMSON: The witness is entitled to answer the question, Mr. Commissioner.

MR. HUNT: I certainly didn't want to hear a recitation of what the police told her.

THE COMMISSIONER: There is a little trouble because we were getting into perhaps Phase II. I don't want to interfere in this debate you are having with Mr. Hunt.



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Are you telling us it is because of something you said to Sergeant Sangster that you then assumed you said the same thing to Janet Brownless? Is that what you are getting at?

THE WITNESS: No. I know what I said to Janet Brownless, but I also remember saying it to Staff Sergeant Sangster.

THE COMMISSIONER: It really doesn't help Mr. Hunt's problem. He wants to know why you remember it so well. Is it something to do with the fact that you said it to Sergeant Sangster or is it something else?

THE WITNESS: Yes.

THE COMMISSIONER: How do you know that you said it to Janet Brownless?

THE WITNESS: I think maybe if I explain.

THE COMMISSIONER: All right. You just go ahead and explain and tell the whole story and we will see where it stands.

THE WITNESS: When Staff sergeant Sangster and John Murray came to my house that morning, they had told me --

THE COMMISSIONER: That is the morning I take it of Susan Nelles --



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THE WITNESS: March 25th.

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THE COMMISSIONER: That Susan Nelles
was arrested.

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THE WITNESS: Yes.

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THE COMMISSIONER: Yes.

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7 THE WITNESS: And they were going to
8 each member of our team. There were two police
9 officers sent out and this was an investigation but
10 they were going to talk to everybody and get all the
11 information together. They were then going to go
12 back to the Hospital and all the teams were going to
13 sit down and discuss it. Now at 2:30 when Staff
14 Sergeant Sangster told me that Susan Nelles was
15 charged with First Degree Murder, I said, "There has
16 to be a mistake. I was there as well and Susan was
17 there." I don't know if that is any clearer to you
18 or not.

19 MR. HUNT: Q. No, it is not at all,
20 because my question is: How do you remember what you
21 said to Janet Brownless? Is it because you have a
22 recollection of what you said to Staff Sergeant
23 Sangster?

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A. No. March 25th was a very
big day.

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Q. It must have been very



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upsetting to you.

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A. Yes. I didn't have police officers come to my door in the morning. I have never been interviewed by Homicide before, so I remember that day very clearly.

Q. Did you make a note at all of anything you said to anybody?

A. I made notes of what I had said to the police, to Staff Sergeant Sangster and Murray, and I think you have them as exhibits.

Q. Did you make any note of the comments that you made to Janet Brownless? I wouldn't think so?

A. No, I didn't.

Q. So again what you seem to be saying is that you have no notes to refresh your memory about the conversation with Janet Brownless; you recalled it quite precisely. The reason you recall it so clearly has something to do with the fact that you had made some other comments to Staff Sergeant Sangster at 2:30 about your view of the arrest of Susan Nelles?

A. Right.

Q. Well then this is a case I take it where if Janet Brownless recalls the conversa-



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tion quite differently, and the comment quite differently, that you and her are at odds over that?

A. Well I remember what I said, and if it is not the same as Janet Brownless then I guess we are at odds.

Q. Now Miss Brownless also told us that she came back to your house on the Friday night - I think your husband was away for the evening or for the night, and you were there alone and she was concerned about you in light of your reaction to the arrest on Wednesday, and when she arrived with her mother you were, appeared to be obsessed with news of this arrest and you were in front of the television flipping from one news broadcast to another and that you had, in the room or somewhere close by, newspapers, all the newspapers had been saved, giving accounts of the arrest and the events at Sick Children's Hospital; that her mother was so concerned about your state at that point that she advised you to turn off the television set and throw out these newspapers and forget about this concern over the arrest. Does that strike a bell with you?

A. Yes. I think we should clarify that Janet Brownless wasn't concerned about my reaction on Wednesday. The reason she came over



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was that she had spoken to Liz Radojewski on the Friday night and Mrs. Radojewski had asked her to give me a call or come over.

Q. Mrs. Radojewski was concerned about your state?

A. Yes.

Q. And so as a result of that conversation Janet Brownless came to see you?

A. Yes.

Q. I guess that is because she was also concerned about your well-being?

A. Well Liz Radojewski had asked her if she wasn't doing anything to go over.

Q. So they were both concerned about your well-being?

A. I guess so, yes.

Q. But other than that, you are in agreement with the account of Janet Brownless with respect to the state you were in when they arrived that night?

A. Yes, I was quite upset.

Q. This is now two days after the arrest of Susan Nelles?

A. Right.

Q. And given that you agree with



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this description of your condition that night, does it not sound a little bit like the description Janet Brownless gave of you on the Wednesday, like you were grieving over this like a mother over a lost child?

A. No, it doesn't.

Q. How do you account for your reaction the two days later?

A. If you remember Friday was the day that Susan was charged with three additional murders.

Q. Yes, that is quite so.

A. And I had not -- I was not contacted by anybody to tell me about the additional charges and I first heard about them on TV.

Q. That threw you into a bit of a tailspin, did it?

A. Yes, it did. I remember hearing the three children, Allana Miller, Pacsai and Janice Estrella, and I could not remember Susan Nelles being there for Janice Estrella, the night that Janice Estrella had died. I went over and over it in my mind, and I called Liz Radojewski, saying "I can't recall Susan being there that night." She said "Well, she was." And I said: "I remember very



H8 1
2 clearly Sui Scott calling me out for help that night
3 for that baby." And she said "Well I think you may
4 be mistaken" or, you know, "you are wrong". I said:
5 "I can't remember her being there." I couldn't
6 understand how Susan was charged with the murder if
7 she wasn't there. I couldn't recall seeing her there
8 at all. Liz said that she thought she was and she
9 would look into it then after that, she would check
it out.

10 Q. So you probably had a better
11 recollection about the events surrounding the death
12 of Janice Estrella that night than you have subse-
13 quently, would that be fair?

14 A. No. As I can recall, I
15 remember Sui Scott calling out for help for that
16 baby, because it was a very shriek, a shrieking call
17 that Sui called out at the time, and I remember
18 that there was me and Bertha, and I could not
remember Susan being there for that arrest.

19 Q. So even at that time, was that
20 the extent of your recollection concerning the death
of Baby Estrella?

21 A. Basically, yes.

22 Q. And then this news of the
23 further charges and your own recollections concerning
24
25



H9 1
2 Janice Estrella, as limited as they were, caused you
3 to react in this manner, distraught?

4 A. Well I had called Liz
5 Radojewski and said I could not remember her being
6 there and, yes, I was upset.

7 Q. Did you follow Mrs.
8 Brownless' advice and shut off the TV and throw out
9 the newspapers and go on with things after that?

10 A. We had had the Globe and Mail
11 paper delivered early in the morning, and my husband
12 had picked up the evening paper that evening, I believe
13 it was the Star, a late edition. They were sitting
14 in the corner. I did have the TV on when Janet
15 Brownless came over. I don't know what I did. The
16 TV went off that night. I don't know if I took Mrs.
17 Brownless' advice or not, but it wasn't that there
18 was mounds and mounds of paper.

19 Q. I take it the period even
20 after Susan Nelles' arrest obviously was a very
21 stressful one for you?

22 A. Yes.

23 Q. The stress didn't just end
24 as far as you were concerned on the day she was
25 arrested and something had been done to stop the deaths?

A. Pardon me?



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H10

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Q. The deaths stopped didn't

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they after Susan Nelles was arrested?

4

A. Well they did, but I don't

5

think I thought of it.

6

Q. But I'm saying to you that

7

even though the deaths stopped, in other words you

8

were not under the same stress you had been under

9

for nine months because of these suspicious deaths

10

happening, that it continued to be quite a stressful

period for you?

11

A. Yes.

12

Q. One of your nurses was now

charged with murder.

13

A. Yes.

14

Q. And was going to have to

15

face a preliminary hearing some time in the fall.

16

A. Right.

17

Q. And that fact was hanging over

18

your head, and I guess over the heads of all the

19

other nurses on your team?

20

A. Yes. I think you have to

21

appreciate that we were a nursing, well, a nursing

22

profession and we had no idea what was going on, what

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was about to happen and there is police officers here,

24

Homicide Squad, and one of our nurses was charged with

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murder, so, yes, it would have to be a very stressful
time, very emotional time.

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Q. I am not quarreling with that
or suggesting that would not be reasonable at all. I
am just suggesting it continued. You knew the
preliminary hearing was set for some time in the fall?

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6

7

A. Right.

8

9

Q. And I suppose there was no
doubt but that you were going to be a witness at it?

10

A. Right.

11

Q. And I suppose you had never
been a witness before?

12

A. No, I hadn't.

13

14

Q. That fact would cause you
some concern?

15

A. Right.

16

17

Q. In addition to the fact that
this was one of your colleagues and I suppose the
tension continued to be focused on the ward itself
and the Hospital as a result of these events of March?

18

19

A. Yes.

20

21

Q. And then you and to a lesser
extent the other members on the team ran into the
events of August, September and early October, which
could have done nothing I suggest but add to the stress

22

23

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H12 2 and concern?

3 A. Yes.

4 Q. And we have had some reference
5 to these events and we will get into them to a
6 greater extent. Is it fair to say generally about the
7 things that happened in August, September and early
8 October, that the concern experienced by yourself
9 and others was heightened by the fact that as a result
10 of the nature of the events it was clear that whoever
11 was responsible was someone who had an intimate
12 knowledge of the Hospital and the ward itself?

13 THE COMMISSIONER: You are talking
14 about the events in the fall?

15 MR. HUNT: Yes.
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I/EMT/ak

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THE WITNESS: Yes, that was a great possibility, yes.

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MR. HUNT: Q. And in addition to that it was clear that whoever was responsible had a close knowledge of you, where you live, what kind of car you drove.

8

A. Yes.

10

11

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Q. And the stress that was created at that time I take it as a result of the incidents and the knowledge that people had or the feelings that people had about who was responsible created a concern not just for your own safety, but indeed for the safety of the patients on the ward.

14

A. Yes.

15

16

Q. The continued safety of the ward.

17

A. Yes.

18

19

Q. Because was it not clear from the nature of these events that the person responsible for them was a very disturbed individual?

20

A. Yes.

21

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Q. I guess they first started with the phone calls that were received by Sui Scott's children?

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A. Yes.

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Q. And as result of Mrs. Scott's evidence we know something about those phone calls and I am sure you (you can tell me if you didn't) heard about what was going on through your conversations on the ward, but to her they were both silent phone calls where no one spoke and threatening phone calls to her children.

A. Yes.

Q. And we know something important about the person responsible from those phone calls, and that I suggest is firstly that the caller was a woman by all reports.

A. Yes.

Q. And that it was probably someone connected with the Hospital?

A. I don't know if that connection was made right then. Well, probably within the Hospital, yes.

Q. Because you knew that Mrs. Scott had her number listed under her husband's initials in the phone book, and that that wasn't something that someone would find given the number of Scotts in the phone book unless they knew who they were looking for.

A. Well, I remember Sui Scott



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2

telling me that.

3

Q . But her number was contained

4

both in the personnel records at the Hospital and

5

apparently on a list of personnel kept at the

6

nursing station, 4A/4B?

7

A. 'Right.

8

Q. And you learned quite early

9

I suggest that the phone calls to the children

10

contained threats of death to both yourself and

Sui Scott?

11

A. Yes.

12

Q. Would you agree with me that

13

whoever would do that sort of thing to a couple of

14

young children, threaten that their mother was going

15

to be killed, was doing something that was very

cruel and callous?

16

A. Yes.

17

Q. I think you agreed with

18

Mr. Lamek yesterday that the fact that Sui Scott

19

herself never heard a voice at the end of any line

20

when she picked up the phone and no one ever contacted

21

her directly that that raised at least the suspicion

22

that the person responsible may have been concerned

23

that Sui Scott herself might recognize the voice

24

some way.

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A. That was suggested to us by the police.

Q. And did you learn that the police put a wire tap on Sui Scott's phone after the report had been made to them about the calls in the hopes of intercepting the caller?

A. Well, they had put the same thing on mine as well.

Q. That is right. That was my next question. At the same time one went on yours?

A. Yes.

Q. And this was a fact that was discussed amongst the people on the ward, the other nurses?

A. Sui Scott had told one of the nurses, and I remember telling her that she shouldn't be telling everybody on the floor; that it should be private.

Q. In any event it was not private?

A. No. People on the floor knew then.

Q. And this as with other events that happened quite quickly they became matters of common knowledge around the ward?

A. Yes, they did.



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Q. And did you know then that after the police put the wire tap on her phone that all of the calls both silent and threatening stopped?

A. Yes.

Q. And I think you have already indicated you never received any calls directly on your phone when the wire tap was placed at your residence?

A. I don't think I did, no.

Q. And again I suggest that raises the inference that the person who was responsible was aware of the fact that steps had been taken to intercept the calls once the wire taps were put on and this became common knowledge, and is a further indication that they may be someone connected with the ward?

A. Well, that was a good possibility.

Q. Now there were other phone calls as well received by other people, phone calls received at various points in the Hospital?

A. Right.

Q. Always by all reports by a female caller?

A. Right.



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I.6 Q. And then there was a phone call
or series of phone calls received by Liz Radojewski?

A. Yes.

Q. And you were aware of the
superintendent of your apartment building,
Mr. Laird, receiving a phone call.

A. Yes.

Q. In which there was a threat
of death from a female involving you and Mrs. Scott.

A. I can remember Mr. Laird coming
up to our apartment door, yes. I don't know what
was said on the phone, but it was a threatening call.

Q. And again that suggests some-
body with a fairly close knowledge of your personal
situation knowing where you lived, who your super-
intendent was?

A. Yes.

Q. And then in addition there
were phone calls at your husband's place of employ-
ment?

A. Yes.

Q. Again from a female, and at
his militia station?

A. Right.

Q. Where he was referred to by the



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caller by his rank, Warrant Officer Trayner.

3

A. I know it was a rank. I can't

4

recall what it was.

5

Q. In any event all of this

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suggests that whoever was responsible for this

7

certainly knew a lot about you, your husband, your

8

personal situation and about others as well?

9

A. Right.

10

Q. Principally the two of you.

11

A. Yes.

12

Q. And then finally we have the
phone call that was received at your bank on August

13

26th early in the afternoon shortly before you

14

arrived there.

15

A. Right.

16

Q. And this not only required

17

certain intimate knowledge of you and your personal

18

business but also knowledge about your whereabouts

19

that day and your itinerary, did it not?

20

A. I didn't see the call as that.

21

I viewed it as just another threatening call and
they had called other places before. I didn't -

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like I didn't take it as them knowing what I was

23

doing that day in particular.

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Q. Did you just treat it as a

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coincidence the fact that your bank manager of all people received a phone call a few minutes before you arrived at the bank?

A. Yes, I did.

Q. You never thought about that and wondered whether whoever was responsible for that didn't know that you were on your way to the bank?

A. No, I don't think I thought of it at that time.

Q. Well, at that time or ever? Have you not thought about that since? You appear to be surprised by the suggestion.

A. No, I have heard the suggestion before, but I didn't - I saw it as a coincidence. There were other calls before that I couldn't give any reason as to why they would call there, and the bank was just the same; it was another one of those calls.

Q. You must have found it very upsetting?

A. Yes, I did.

Q. Surely the first thing you would have thought of after this happened was here is my chance to figure out who is doing this. Who



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knew that I was going to the bank? Isn't that the first thought that would strike you?

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A. No, it didn't.

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Q. I take it that thought never struck you until somebody some time ago put the suggestion to you?

7

8

A. Right.

9

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Q. Well, you couldn't have told that many people that day that you were planning to go to the bank early in the afternoon, could you?

11

12

A. No, I didn't.

13

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Q. So really at that point in time the people that might have been privy to that sort of information would have been a pretty short list?

15

16

A. Right.

17

18

Q. And you had the golden opportunity presented to you to zero in on who might have been behind that call and probably all the other instances?

19

20

A. Well, we phoned the police from the bank and they were going to - they were the investigators.

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Q. Did you not go over in your mind the people you had spoken to that day? I mean there couldn't have been that many people that knew



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I.10 you were off to the bank that afternoon. Did you not say well, I told that person or I told that person?

A. Well, I think we explained all that to the police, but I can't remember. I know we went downtown to their office.

Q. Well, who did you tell? You must surely remember that?

A. The police officers?

Q. Who had you told that day that you were going to the bank?

A. I don't know. I don't know if I told Liz Radojewski or not or I don't - I knew we were going to the exhibition. I thought I told Liz Radojewski that.

Q. That you were going to the exhibition?

A. Yes.

Q. What about the bank, though? You see how important this is that the chances of it being someone other than the person you told you were going to the bank are really non-existent?

A. I can't remember who I told. If I told anybody.

Q. You think you told Liz



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Radojewski you were going to the exhibition?

3

A. Yes.

4

Q. But you can't remember if you told her you were going to the bank?

5

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A. Right.

7

Q. Now, Mr. Lamek asked you if you had any explanation for the evidence of your bank manager which he put to you to the effect that you were upset before he told you anything about the phone call.

8

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A. Yes.

12

Q. And I take it that you have no recollection of anything having happened to you up to the point in time you were advised of the fact of this threatening phone call that you can now recall upset you that day?

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A. No.

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Q. Now, ma'am, you gave some evidence at the preliminary hearing about the bank, Volume 5, at page 1088. This was under cross-examination by Mr. Cooper. He was dealing specifically with Susan Nelles and whether or not she would have had any knowledge about where you did your banking. It is very short. I will read it to you and if you have any difficulty I can show you.

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It begins at about line 8.

"Q. She didn't..." that is referring to Susan Nelles "...so to your knowledge Susan Nelles would have no idea where you did your banking from anything you knew, isn't that true?"

"A. I think she probably, she may have known because I was having problems getting my money from the one bank that the Hospital was putting it into and trying to get it into my branch. That was talked about on the floor with the girls."

"Q. All right. Would you have discussed where your branch was located?"

"A. Yes, I did."

"Q. And who your manager was?"

"A. Not who the manager was, no."

"Q. Not who the manager was. So that any of the girls on the floor would have known where you did your banking?"

"A. Yes."



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"Q. Is that right?"

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"A. That's correct."

4

5 Now, ma'am, that evidence that you
6 gave at the preliminary hearing has been disputed
7 by a number of the witnesses who have testified here,
8 principally Janet Brownless, Mrs. Christie and
9 Susan Nelles herself, who all indicated that they had
10 never had any discussion with you about your bank,
11 where you did your banking, the branch, the bank
12 manager and, furthermore, they had never heard the
13 matter discussed by you with any of the girls on the
14 floor, so that they had really no idea what you were
15 talking about in your suggestion to Judge Vanek that
16 your banking and where you did your banking was a
17 matter of common knowledge amongst the girls on the
18 floor.

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Now, my question to you is, do you
have any comment with respect to the fact that these
other nurses that you have suggested were aware of
this have no recollection of this conversation or any
conversation along those lines?

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A. No, I don't have any answer
for that.

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Q. Now, you received marks on
your apartment door I think, 'Xs' with lipstick?

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J3 2 A. Yes.
3 Q. And there were also 'Xs' in
4 the hallway on the fire extinguisher door?
5 A. Yes.
6 Q. And this happened on a number
7 of occasions?
8 A. Right.
9 Q. And that suggests does it not
10 that the person who was responsible not only had
11 intimate knowledge with respect to where you were
12 residing at the time but also was very bold?
13 A. Yes.
14 Q. I mean, they ventured right
15 into your hallway, up to your apartment door on a
16 number of occasions and risked being caught or seen
17 by anyone putting marks in various places they were
18 found?
19 A. Yes.
20 Q. And again your car was marked
21 on at least one occasion with an 'X'?
22 A. Yes.
23 Q. And am I correct that that
24 happened when it was parked in the parking lot in
25 the basement?
A. I believe so, yes.



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Q. And would I be correct that the parking spots in the basement of the building you were residing in at that time were numbered?

A. Yes.

Q. But those numbers bore no relation to the apartment number that you had?

A. No, they didn't.

Q. And I imagine there must have been hundreds of cars parked in the lot?

A. Yes.

Q. So that the person who marked it could not have found it simply by looking for a numbered spot that corresponded with your apartment number?

A. Right.

Q. They would have to look through hundreds of cars to come to this car if they didn't know which one was yours?

A. Right.

Q. And again a venture into your underground parking lot by someone would be a very bold stroke on the part of the person who was responsible for this?

A. Yes.

Q. Now, in addition to this,



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your locker in the Hospital, along with the locker
of Sui Scott, and we'll deal with that in a
moment, was marked?

A. Right.

Q. And that was on more than
one occasion?

A. Yes.

Q. And am I correct that your
name was not on the outside of the locker?

A. No, it wasn't.

Q. It was a locker number?

A. Yes.

Q. So, whoever did it had to
know where your locker was?

A. Right.

Q. And again coming into the
Hospital in that way in order to put a mark on your
locker, does it not suggest that they had to be
someone who was connected with the Hospital, if not
the ward, so that they would avoid arousing suspicion
that would be attracted by someone unconnected
being down in your locker room?

A. Yes.

Q. Now, we have heard from Sui
Scott about the 'X' that she found on her basement



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J6 2 locker, and I don't think you went down with her
3 when she found it, I don't think it was you?

4 A. No.

5 Q. I think she suggested there
6 were two others. But in summary she said that came
7 about when Nurse Fernandez reported to you that
8 earlier on in the shift some time she had received a
9 phone call that was in some way threatening but she
10 hadn't reported it immediately to you or anyone else
11 and she was reporting it subsequently, some time
12 before she left the shift, that this had upset you
13 because it hadn't been reported to you immediately
14 and that you suggested to -- that Anna Fernandez had
15 reported the conversation to you, to Sui Scott, that
16 you suggested that Sui Scott go down and check her
17 locker. She indicated that there was nothing in the
18 conversation related by Nurse Fernandez to you and
19 to her that suggested that there was anything wrong
20 with her locker; in other words, what she was telling
21 us was that you suggested to her on your own that she
22 ought to go down and examine her locker.

23 Now, does that accord with your
24 recollection?

25 A. No, it doesn't.

Q. No. Do you have a distinct



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recollection of this event?

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A. Yes.

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Q. All right. Can you tell us
then what you recall?

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A. I'm not sure if it is that
same event. I remember it was Mary Jean Halpenny
that had received a call, that she said it sounded
like it was from within the Hospital and that it was
from downstairs, there was noise she thought, and she
thought it was coming from a locker room. That was
Mary Jean Halpenny and Susan Reaper and Sui Scott
that had gone down to look at the locker room to see
if they could find anybody or see anybody. The
supervisors were called and I think the police were
called at that time.

Q. Well, Sui Scott's recollection
of the event is, as I have summarized it for you,
found in Volume 118, page 6994, and Volume 119,
page 7080 to 7087, and her recollection is that this
call was something that didn't involve Mary Jean
Halpenny but it involved Anna Fernandez reporting it
to you and to her about the phone call at a time
some time after it happened and then, as a result of
suggestions, repeated suggestions by you, she went
down and checked her locker. Do you have any



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recollection of an incident like that happening?

A. No, I don't.

Q. I take it you are not prepared to dispute Sui Scott's recollection then that that's what happened?

MR. STRATHY: Mr. Commissioner, I would like to check the evidence of Nurse Halpenny at the preliminary. I don't have it in front of me but my recollection of it on this point is that it accords with what Mrs. Trayner has said.

MR. HUNT: I'm not disputing what Mrs. Trayner said about an incident. I'm talking about an incident that was related here.

THE COMMISSIONER: I think what Mr. Strathy was saying was it was time we broke for lunch.

MR. HUNT: Oh. Oh, I was slow on the uptake, but I will now.

THE COMMISSIONER: Until 2:15 then.
--- luncheon recess.



AA/DM/ak

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--- Upon resuming at 2:15 p.m.

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THE COMMISSIONER: Yes, Mr. Strathy.

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MR. STRATHY: Mr. Commissioner, just

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before we broke I was referring to the evidence of

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Miss Halpenny at the preliminary inquiry. It is

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found in Volume 9, page 57 and I don't think I need

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to read it in any verbatim, except perhaps to

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summarize. It is to the effect that Miss Halpenny

10

did hear a call one night about 4 o'clock in the

11

morning, nobody talked but she was curious because

12

it appeared to have been placed from inside the

13

Hospital. She ran down to the locker room with

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Miss Reaper where she knew there was a phone available,

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and found that there had been made a mark on

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Mrs. Trayner's locker. That seems to conform with

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the evidence just given by Mrs. Trayner before we

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broke. It is not to say it is the same evidence that

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Mrs. Scott is talking about, but it does conform

20

with Mrs. Trayner.

21

THE COMMISSIONER: Yes, yes. I am
not sure that I understand it, I wouldn't know where
it is, but who was it that ran down?

22

MR. STRATHY: Halpenny and Reaper
and I think that's the incident --

23

THE COMMISSIONER: Is this the same

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25



1
2 date?

3 MR. STRATHY: It is not clear what
4 the date is, it may well have been a different
5 incident.

6 THE COMMISSIONER: Yes. All right.
7 Thank you. Well make of it what you will, Mr. Hunt.

8 MR. HUNT: Certainly.

9 Q. Does that assist your
10 recollection now, Mr. Strathy reading to you from
11 the evidence of Mary Jean Halpenny?

12 A. I can recall that incident
13 quite clearly.

14 Q. That is the one you were
15 thinking of before lunch?

16 A. Yes.

17 Q. And that is quite clearly a
18 different one than the one Sui Scott is talking
19 about, because in this incident as related by
20 Mary Jean Halpenny when they went down they found
21 the X on your locker.

22 A. As I recall there was an X
23 on Sui Scott's locker at that time as well.

24 Q. Did you go down?

25 A. No, I didn't go down, I was
just told.



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Q. So you don't really have any recollection of that, do you, going down and seeing an X on the locker at any time?

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A. I know I didn't go down at that time. I knew I had gone down later with the security guard when he was called and we went down.

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Q. The incident she recalls as I summarized it for you before lunch is it simply involved her locker, and she herself went down and found the X along with two others, but she went down and found it. I am suggesting to you that it is quite apparent that really the two of you are talking about different incidents.

14

A. Okay.

15

16

Q. So you have no recollection one way or the other as to this incident that Sui Scott has told us about?

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18

19

A. No, I don't.

20

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Q. So you are not really in a position to dispute with her that it occurred?

A. Right.

Q. If it occurred as Mrs. Scott has told us about, do you have any explanation for why you suggested that she go down and check her locker?



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A. No, I don't.

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Q. Well now we have heard as well from a number of people about the early morning hours of September the 25th, 1981 when you and Sui Scott discovered pills that turned out to be Propranolol in your meals.

8

A. Yes.

9

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14

Q. And what is your recollection of that?

A. I remember going down with Mary Jean Halpenny, and I think it was Mary Lyn Barnett as well to heat up the soup. Sui and I had discussed earlier that we would share the soup and the salad.

15

16

Q. I'm sorry, you discussed it earlier in the evening?

17

18

A. Yes. It was either - I guess the night before too.

19

20

21

Q. Pardon?

A. It was the night before, the morning before we had gone home that we would probably share some soup and salad.

22

23

Q. So you discussed this quite some time ago?

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A. I think so, I am not sure.

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Q. I see.

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A. I can recall going down to the main floor to heat up the soup with, as I said, Mary Jean Halpenny and Mary Lyn Barnett and coming up to the floor and sitting down with Mary Lyn Barnett and Mary Jean Halpenny and myself and Sui Scott to have lunch, or dinner. I can remember a doctor that we had called for earlier to start an IV came shortly after we had sat down and Mrs. Scott had gone into 418 to help the doctor start the IV and I was at the desk with Mary Lyn and Mary Jean, eating. I had had some of the soup and then I had noticed some pills in the soup.

14

Q. Yes.

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A. I can remember pushing away the soup and Mary Jean Halpenny making a remark like "What's wrong? Is there a X at the bottom of the bowl?"

18

Q. Yes.

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A. And I remember Mary Lyn Barnett going in to get Sui Scott, and Sui Scott coming out and I can recall Mary Jean Halpenny phoning Liz Radojewski at home in the morning, and when Liz came the police were called and they took some samples and a doctor was called down from



1
2 whoever was covering our floor and he took some
3 blood samples and our blood pressure and suggested
4 we just go over to the Toronto General. I remember
5 going over with Liz Radojewski and having an
6 examination over there, and then coming back to
7 work and then going home.

8 Q. Certainly an upsetting event?

9 A. Yes.

10 Q. One I am sure you have been
11 over many times in your mind thinking about it.

12 A. Yes.

13 Q. And what you have given us
14 here is the extent of your present recollection of
15 the whole incident?

16 A. Yes.

17 Q. Well now, just to ask you one
18 question before I go any further with it. You
19 definitely remember some arrangement that extended
20 back to the night before when you had agreed with
21 Sui Scott to share soup and salad the next day?

22 A. I am not really clear, I don't
23 know if it was just the time when we came in. We
24 used to order a lot of food into the Hospital and
25 we were getting a little tired of the selection that
we had. It must have been that evening Sui had



1
2 asked me what I had brought in, and I said "some
3 soup"; and she said that she had some salad and
4 that we could put those two together instead of
5 ordering in salad or something else.

6 Q. So now you don't think it was
7 the night before that you made this arrangement?

8 A. No, I am pretty sure it was
9 that evening when we got to the floor.

10 Q. It wasn't the night before,
11 it occurred on that evening, that is your best
12 recollection?

13 A. Pardon me?

14 Q. The arrangement wasn't struck
15 the night before, it occurred that evening?

16 A. Right.

17 Q. Now the size of the area that
18 we are dealing with here, it is that area in behind
19 the nurses station to begin with, is it not, where
20 this occurred?

21 A. Yes.

22 Q. That area it is not a
23 cafeteria sized area?

24 A. No.

25 Q. It is an area big enough for
a couple of tables?



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A. Yes.

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Q. If I suggested to you it

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was about, oh, a total of approximately 16 feet wide

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by about 10 feet long, would that sound about right?

6

A. I really don't know, it wasn't

7

a huge place.

8

Q. And there were two tables

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there at the time?

10

A. Yes.

11

Q. Do you recall where you were

12

seated?

13

A. We were sitting at the table

14

on the 4B side.

15

Q. Mrs. Scott's recollection was

16

that you were at one end of the table and she was

17

seated beside you on the other side of the table.

18

A. Yes.

19

Q. Does that accord with your

20

recollection?

21

A. Yes.

22

Q. Was there anyone else at your

23

table?

24

A. Mary Jean Halpenny and Mary Lyn

25

Barnett.

Q. They were all there?

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A. Yes.

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Q. Do you recall anybody else
in the area eating at the other table?

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A. I'm not sure if Mrs. Christie
was there at the time, or was coming in for dinner.
I can't specifically recall her being there at that
time at the table.

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that you came and sat beside her or at the end of the table, beside her but at the end; that you had some soup in a plastic container; that you offered her some of the soup which you told her was cold because the microwave wasn't working.

A. Well, it wasn't extremely hot.

Q. Well, the microwave hadn't heated the soup.

A. Well, it had heated it but it wasn't very --

Q. Oh, I see. It wasn't cold soup as far as you can recall?

A. Right.

Q. All right. And she took the spoon and stirred the soup to see what kind, and it was a chicken type soup, noodles or vegetables in it.

A. It was a chunky chicken vegetable.

Q. Now she offered you some of her salad, and a doctor came by who was going to start a child's intravenous and she left and went with the doctor. She was approached by someone in the room and told she had better go back to the nursing station; something had happened, and she was away



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approximately ten minutes during this time period, and when she came back you were quite upset pushing away the salad and the soup, and she looked in the salad and she saw five or six small pinkish-orange pills, some of which did not appear to be wet to her from the salad dressing, and she stirred the soup, your soup, using the spoon that was there. She saw four or five of the same type of pills in there that did not appear to have dissolved very much at that point in time.

Now obviously she has indicated she recalls certain more of the events prior to leaving the room to go and start the intravenous concerning the soup and the salad than you do, but the net effect of her evidence on that point is that prior to leaving the table she had both tossed her salad and stirred your soup to see what kind it was, and in neither at that point did she see any pills.

Now we have also heard from -- I'm sorry, we haven't heard from Miss Halpenny but we have available her evidence given at the preliminary hearing as to what her recollection is. At Volume 9, page 50, she commences. I will just read this to you. It isn't terribly lengthy. About line 20:

"Q. All right. Would you tell



1
BB3 2 His Honour about that one, please."
3 "A. The night we were sitting
4 around eating lunch, I am not sure,
5 I can't remember the time of it, and
6 I was sitting across from Mrs. Scott's
7 lunch and Mrs. Trayner got up and
8 walked from the end of the table over
9 to, to look through Mrs. Scott's
10 lunch and she just had a blank look
11 on her face. So I was kidding her
12 about it and she just stood up and
13 couldn't speak, and what we found
14 out was that there were pills in
15 Mrs. Scott's food and we went back
16 and there were pills in Mrs. Trayner's
17 food."
18 And then at page 71 she dealt further with that. She
19 was asked:
20 "Q. Well, at what point did
21 Phyllis Trayner go blank?"
22 "A. Sui was gone out of the room
23 and Phyllis got up and walked over
24 to Sui's food and was looking through
25 it."
"Q. Was looking through it? Prior



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to that had Phyllis Trayner tasted
any of Sui Scott's food?"

"A. Not that I know of."

"Q. Did it look strange to you
for Phyllis Trayner to get up and
start -- she would have to get up
from the end of the table and walk
down some distance and then rummage
through Sui Scott's food, is that
right?"

"A. Yes. I wonder --"

And then there was an interruption by Mr. McGee:

"MR. MCGEE: She didn't say 'rummage
through'."

"MR. COOPER: Well, I'm sorry. That
is a colourful way of saying she
looked through the food."

"THE WITNESS: Right."

And then Mr. Cooper continued:

"Q. Did she say anything?"

"A. No, she didn't. I asked -- I
was wondering what she was doing.

"Q. That's a pretty strange thing
to do, to go when you are rummaging
you are just -- did she have a spoon



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or something and digging around in
the food?"

"A. She had a fork I think."

"Q. She had a fork? She wasn't
tasting the food, she was looking
through it; is that right?"

"A. Yes."

"Q. Was there anything she said
to you that gave you to understand
that there might be something in that
food before she went and looked?"

"A. No, because it was -- no, no."

"Q. Did she have to take the lid
off the food before she looked?"

"A. No."

"Q. Did she look in your food?"

"A. No."

"Q. Did she look in anyone else's
food?"

"A. I can't remember if there was
any food sitting there."

"Q. But the only person's food
who Phyllis Trayner went over to look
at was Sui Scott's; is that right?"

"A. As far as I can remember."



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"Q. Yes." And Sui Scott hadn't gone down to the microwave oven with you and the other persons?"

"A. I can't remember her going down."

Now, Mrs. Trayner, the evidence of Sui Scott is to the effect that prior to leaving this table she observed nothing after tossing her salad or stirring your soup. Ten minutes later she is called back and she has found pills in her salad, some of which aren't wet according to her from the salad dressing, and she stirred your soup and she has found pills in the soup that do not yet appear to have dissolved.

Now the inference from that evidence of Mrs. Scott is quite clearly that the pills went into her food and your food after she left the table to go down and examine the child. Do you have any explanation to offer for that?

A. No, I don't really. Three of us were at the table the whole time.

Q. You don't appear to have any recollection of what you did after Sui Scott left the table. Does my reading to you of Mary Jean Halpenny's evidence concerning your activity refresh



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your memory at all?

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A. I know I had some of my
soup and then I went over to get some of Sui's
salad.

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Q. She has described your
action of going over to Sui's salad as being somewhat
strange to her. She wondered what you were doing
as you took a fork and went through the food. Do
you have any explanation for that?

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A. No, I don't.
Q. Mrs. Trayner, you see the
significance of this, don't you, that if Mrs. Scott
is right and the pills went into the soup and the
salad in that ten minutes after she had been away from
the table, it had to happen at a point in time when
you were right there.

16

17

A. Well, there was three of us
at the back of the nursing station.

18

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Q. That doesn't take away from
the fact that you were right there in front of your
own soup and beside -- down the table from Mrs.
Scott's salad.

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A. Right.

Q. I am asking you do you have
any explanation as to how the pills, if she be right,



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Trayner
cr.ex. (Hunt)

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BB8 2 got into your soup and her salad in that period of
3 time?

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A. No, I don't.

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Q. Did you put them in your soup
and salad?

A. No, I didn't.

Q. You were under a lot of stress
at that point in time I think you have indicated?

A. Yes.

Q. Stress from the events not
only of the deaths but of the events leading up to
the preliminary hearing which was to start in a
couple of weeks.

A. Right.

Q. Did you find that the stress
you were under at that point in time was affecting
you in any way?

A. Maybe not sleeping as well,
maybe not eating as much. I don't know.

Q. Did you feel at that point in
time that you needed assistance or reassurance from
anybody that you weren't getting?

A. No, I didn't.

Q. You see the importance of
this, Mrs. Trayner, is, it is certainly likely that
the person who put the pills in your soup and Sui
Scott's salad is the person responsible for all of
these other bizarre incidents that occurred in



1
2 August and September and, indeed, into October, isn't
3 it?

4 A. Yes.

5 Q. And here is a case where on
6 the evidence we have it had to happen in a small
7 space where there were only a limited number of
8 people and in an extremely short period of time.

9 A. I have no explanation for you,
10 only that I did not do it.

11 Q. Well, at that time did you
12 wonder who amongst the group of you there could have
13 done it?

14 MR. STRATHY: Well, just one point
15 I think needs to be clarified, Mr. Commissioner, and
16 that is this. It seems to me Mr. Hunt's inference
17 or suggestion that this event had to happen in this
18 certain period of time but it is nothing more than
19 Mr. Hunt drawing an inference from the evidence
20 which may or may not be an appropriate inference to
21 draw. So, to suggest that it had to happen during
22 that time, in my submission is not necessarily an
23 accurate reflection of the evidence. Quite apart
24 from that, the witness has given her answer now twice
25 to Mr. Hunt's question.

THE COMMISSIONER: Yes. Well, apart



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entirely from the relevance of this evidence, and I don't want to say anything about it at the moment, but I think the cross-examination is legitimate. Mr. Hunt is drawing an inference and the witness doesn't need to agree, you will get an opportunity to re-examine when the time comes and you can suggest another inference to it, that's all right. I realize that counsel must not misstate the evidence but when he is drawing an inference he puts it to the witness, the witness either accepts it or she doesn't.

MR. STRATHY: Well then, perhaps it should be put as a fact not as a statement or a preface with an 'if' rather than as a fact.

THE COMMISSIONER: Well, he has put the proposition to her that if the Scott evidence is correct then the pills must have been placed in the soup and the salad within the 10 minutes that she was away with the doctor fixing up the IV, one that she can accept or not accept if she wants but I think he's got a right to put the inference to her and then go on with it. But I accept the fact that the inference isn't mandatory.

MR. STRATHY: Right.

MR. HUNT: Thank you, sir.



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Q. Mrs. Trayner, did it strike you at the time to wonder as to who amongst the group that was there was responsible for this?

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A. Well, I didn't believe it to be anybody, like, Mary Jean Halpenny or Mary Lyn Barnett, anyone that was sitting at the table at the time. I had no idea when these pills were put into the soup and the salad.

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Q. Well, ma'am, we have the evidence of Mrs. Scott that some of them weren't even wet from the salad dressing that she had put on when she tossed her salad, that the pills in your soup hadn't even yet begun to dissolve to any extent. Surely you must have wondered at that point as to when they went in and concluded that it must have been very shortly before they were discovered?

17

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A. My assumption was that they had gone in before because I was there with Mary Lyn Barnett and Mary Jean Halpenny.

22

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Q. Well, how long did you think they would last in your soup before they would dissolve?

A. I don't think I ever thought of that. I just felt that they were put in some time during the evening.



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Q. Did you never sit down with this incident and wrestle with it and try to come to a conclusion as to who it might have been who was responsible for it? I mean, you had been tormented by incidents like this for over a month at this point.

A. Oh, yes, we had. We sat down with the police and wondered but we didn't have any answers.

Q. Well, you yourself though you were one of the people directly affected by it?

A. Yes.

Q. Did you not wonder where they came from, the confined space that you were in and the time that had elapsed from when you sat down with your soup to when they were discovered?

A. Yes, I wondered, but I had no answers.

Q. I see. Well, of all the events that had occurred up to that point in time surely this would have to be the boldest stroke of all for the person responsible to actually put drugs into your food and one of the other nurses' dinners right there on the ward?

A. Yes.



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Q. And these containers that they were in I understand were kept in the fridge?

4

A. Yes, they were.

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Q. On the ward. Sui Scott has indicated that she had no identifying marks on her container and that she didn't believe you had any on yours?

8

9

A. Right.

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Q. So that whoever put the drugs into the food, if it happened as you say before the food was on the table, had to know whose food was in what container in order to get the right ones, didn't they?

14

A. Yes.

15

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Q. And doesn't that suggest an incredibly intimate knowledge of the happenings on the ward and the property that you and Mrs. Scott had?

18

A. I'm sorry, I missed that.

19

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21

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Q. I mean, it shows that somebody has an incredible knowledge of what was your property, what was hers and of the things that went on on the ward?

23

A. Yes.

24

25

Q. So, we are really, in terms of



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3 narrowing this down, getting to a fairly select
4 group of people, aren't we?

5 A. Well, people within the
6 Hospital.

7 Q. It had to be a little more
8 select than people within the Hospital, we are now
9 to an incident that had occurred right on Ward 4A/4B,
10 right at the nursing station and involved your
11 food, Sui Scott's food at a time when other people
12 were present.

13 A. Right.

14 Q. So, I am suggesting to you to
15 be able to pull that off without being caught or
16 raising suspicion suggests that we have now got down
17 to a very select group of people who were in a
18 position to do that.

19 A. Okay.

20 Q. And those people principally
21 would be the ones who worked on 4A/4B at that time.

22 A. Well, that would be a
23 possibility, yes.

24 Q. Now, Sui Scott also told us
25 that she went over to the Hospital and she went
through an incredibly distressing procedure of a
gastric lavage, she was sick of her stomach and she



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came out after undergoing this and you were sitting there and seemed quite calm and when she asked you whether you were all through with the procedure you told her that you didn't undergo it.

6

A. Right.

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Q. Why was that?

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A. Because I had already been sick over at the Hospital on 4A and 4B and when we went over to the hospital they had done the ECG, they didn't think there was anything wrong, they had asked me if I had already been sick or did I feel sick, I told them, yes, I had and they said that was okay. It was not a gastic lavage that Sui Scott had, it was syrup of ipecac and they just gave her some of that to induce vomiting and since I had already vomited they didn't feel the need for it.

17

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Q. Well, when you were giving me your recollection of the events of that night a few moments ago you didn't mention that you had been sick.

21

22

A. Well, I didn't know how far you wanted me to go.

23

24

25

Q. Well, you covered the trip to the hospital and back again and going home. Did you



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forget about that part that you had been sick?

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A. Well, I just never mentioned

4

it to you.

5

Q. Well, was anyone at the

6

Hospital with you when you were sick before you
went over?

7

A. No, I was in the washroom

8

by myself; Liz Radojewski had suggested that.

9

Q. In any event, you didn't

10

take any treatment over at Toronto General?

11

A. I had an ECG done, I had a

12

blood pressure done and an examination done by the
doctor on call in the emergency centre.

13

Q. No treatment that involved

14

ridding your system of anything that might be in it?

15

A. No.

16

Q. Weren't you a little concerned

17

about that?

18

A. No. Well, the doctor said that

19

he wasn't concerned, there was no changes in the ECG,

20

the blood pressure was fine and that I looked okay

21

and he wasn't concerned.

22

Q. You had one other item of

23

food that you were going to eat that night, didn't
you?

24

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A. Yes.

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Q. Some yogurt.

4

A. Yes, I think it was a yogurt.

5

Q. And that had been in the

6

fridge along with your soup.

7

A. Right.

8

Q. And also that was in an

unmarked container, wasn't it?

9

A. Right.

10

Q. And a few days later did you

11

remember that you had the yogurt in the fridge?

12

A. It wasn't until I had gone into

13

the fridge with Mary Jean Halpenny to get something,

14

some milk or something, and the yogurt was there

15

and I remembered that I had brought it in.

16

Q. And you connected it to the

17

meal that you had brought in the night that the pills
went into it?

18

A. Yes.

19

Q. Did you wonder whether maybe

20

there was some pills in the yogurt too?

21

A. Well, I opened it, opened up

22

the yogurt with Mary Jean and, yes, it was an orangey

23

colour I think, I can't remember.

24

Q. So, were the police called back

25



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down to give them the yogurt?

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A. We had the area co-ordinator that was on the floor that night, Mrs. Pyykkonen, and we just put it in a plastic bag and left it in the fridge and I think the police picked it up the next day.

8

9

10

Q. You later found out there was propranolol in that too, didn't you?

11

12

13

A. I think so, but I can't remember.

14

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16

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Q. So, whoever picked out the right soup and the right salad to hit with the drugs also was able to pick out your yogurt?

18

19

A. Well, it was there, yes.

20

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Q. Well now if you didn't have anything to do with the pills going into your soup and salad then you must have after this incident been absolutely petrified this would happen again?

A. That I was petrified that it would happen again?

Q. Yes.

A. Well, we were quite concerned, yes. The police were involved and they were investigating it.

Q. Sure, the last thing you wanted



1

2

was to go through this again.

3

A. Right.

4

Q. And we have heard from

5

Mrs. Radojewski that you, and I presume others,

6

were warned not to put food with your name on it

7

after this?

8

A. No, I can't recall that, no.

9

Q. You don't recall being warned

10

not to do that?

11

A. No.

12

Q. Well, what did you do to

13

protect yourself and ensure that this didn't happen
to you again?

14

A. Tony Warr had brought over

15

some stickers, a few stickers from the Forensic

16

lab and he said that we could tape them to our food.

17

Q. I see.

18

THE COMMISSIONER: I'm sorry, what

would these do?

19

THE WITNESS: There would be seals

20

that you could put over the Tupperware.

21

MR. HUNT: Q. And what was this

22

supposed to do?

23

A. If the seal was broken

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then you would know that someone had opened it.

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Q. Did you put any more food in the fridge?

A. I had used the stickers up that I had brought in for my food, yes. I think there was a yogurt later on, I don't know, I can't remember when, but it was a yogurt that I had bought in the cafeteria with the girls at lunch and didn't eat it at lunch time and brought it back up to the floor and Sui Scott had no more of the stickers and neither had I so I just put a piece of tape over it with my name and put it in - I can't remember what fridge it was in but I think it was in our fridge, the nurses' fridge with the food, I don't think it was in the juice fridge or anything.



D/DM/LN

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Q. So I have it right, you purchased some yogurt, you put a piece of tape on it with your name on it and then you put it in the frig?

A. Yes.

Q. Wasn't that just asking for trouble?

A. Well, I put the tape on it thinking that I would know if anything had happened.

Q. Was this a piece of masking tape, or scotch tape?

A. It was a piece of white adhesive tape with my name on it.

Q. With your name on it? Wasn't that just asking for trouble.

A. Well our names were on the forensic stuff as well. What do you want me to say?

Q. I am asking you how you could, in light of what happened to you on the 25th, within two weeks, put a piece of adhesive tape over a cannister of yogurt and put your name on it and put it in the frig and expect that you were going to be safe, or that you were taking adequate precaution to see that what happened didn't happen again.

A. I thought I would be able to tell if anybody had gotten in the way the tape was put on.



2 1
2 Q. I see. I guess in hindsight you
3 recognized that wasn't the smartest thing to do?

4 A. Yes.

5 Q. Then what happened to the yogurt?

6 A. There was something orange in it.

7 THE COMMISSIONER: This is the second
8 yogurt is it not?

9 THE WITNESS: Yes.

10 Q. This is the second yogurt, this
11 is in early October, I think around October 7th.

12 A. It could be, I can't remember
13 the date.

14 Q. And you noticed some discolouration
15 in it and it was given to the police, they tested it
16 and surprise, propranolol was in it.

17 A. I think so, yes.

18 Q. Very shortly after that incident
19 you were transferred to the burn unit I think?

20 A. Right.

21 Q. Is that 8E?

22 A. Yes.

23 Q. My understanding at that point
24 is that the bizarre incidents stopped.

25 A. I believe so, yes.

Q. You didn't have any more 'Xs'



1
2 on your car, any more drugs in your food?

3 A. No.

4 Q. And neither did Sui Scott. Did
5 that strike you as strange when that happened?

6 A. That they had stopped? It had
7 come about that the police thought it was because of
8 the preliminary hearing being postponed to January
9 the 6th, that maybe that has something to do with it,
10 they really weren't sure it was just a suggestion and
11 now we were on a different floor and we were away from
the cardiac.

12 Q. There was one last wrinkle of
13 a threatening nature, wasn't there, after you were
14 transferred, February 19th of 1982, a phone call
was received at ward 4A?

15 A. I don't know.

16 Q. You don't know anything about
17 that one?

18 A. No.

19 Q. That would have been about the
20 time you were testifying at the preliminary hearing,
21 wouldn't it, in February of 1982?

22 A. It may have been, I thought it
23 started January 18th, I'm not sure.

24 Q. It may have been a little bit
25



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before that that you were testifying, and this probably would come after you had finished testifying.

3

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A. It would be then, yes.

5

6

Q. And I take it at the time you were testifying and as this preliminary hearing developed you were under a great deal of stress at that time?

7

8

A. Well it was a very different and unique situation, yes.

9

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14

Q. Ma'am, I'm going to suggest to you that you were under such stress in the months of August and September and October that you were bothered considerably by it, and that it was you who is responsible for not just the pills in the soup and salad, but for all of these bizarre incidents that we have looked at?

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A. No, I am not.

Q. Well if it wasn't you, given the nature of the incidents that we are concerned with here, would you agree with me that if we find out who was responsible for those incidents it is going to tell us a lot about the incidents that occurred with respect to the babies dying between July of 1980 and March of 1981.

A. I can't speculate on that at all. I don't know who was responsible for the baby deaths.



5

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I don't know who was responsible for the threats.

3

Now, you are asking me to speculate on that they are

4

going to give you the information, I don't know who

5

is responsible for either of them, I know I am not.

6

Q. That is fair enough.

7

A. And I can't give you an answer.

8

Q. We agreed these incidents in

August, September and October are pretty bizarre?

9

A. Well they were very upsetting,

10

yes.

11

Q. Pretty sick.

12

A. Yes.

13

Q. And if somebody was killing these

14

babies intentionally between July of 1980 and much

15

of 1981 would you agree with me that is also pretty

bizarre and pretty sick.

16

A. Yes.

17

MR. HUNT: Those are all the questions.

18

Thank you.

19

THE COMMISSIONER: Yes. Thank you Mr.

20

Hunt.

21

MR. PERCIVAL: Mr. Commissioner, I

22

would really not start ten minutes and then have to

break.

23

THE COMMISSIONER: No. All right, we

24

25



will take a break now then, 20 minutes.

MR. PERCIVAL: Thank you.

-- (Short Recess)

-- (Upon resuming)

THE COMMISSIONER: Yes, Mr. Percival.

MR. PERCIVAL: Thank you Mr. Commissioner.

CROSS-EXAMINATION BY MR. PERCIVAL

Q. Mrs. Trayner I want to start, if I may, with respect to perhaps something that you have dealt with on a number of occasions in the course of the past few days having to do with your nursing team. I want at the outset perhaps to ask you a little bit about what you thought about your nursing team in the course of these nine months, and what you thought was their strength and their weaknesses.

I gather you had two nursing assistants working for you, or on your team, one was Marianna Christie, and before she started with you did you know how long she had been at the Hospital for Sick Children?

A. I thought over 20 years.

Q. Yes. Did you feel that she was a competent nursing assistant in paediatrics?

A. I felt Mrs. Christie was good at bedside nursing care.



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Q. And that was your assessment at the beginning of the nine month period. Did that continue through the nine month period as far as you were concerned?

A. Yes.

Q. And you said that that was one of her strengths, did she have any weaknesses?

A. She was, as I said, she was good with baby care or the basic care. I don't know if she was as astute as some of the other assistants on assessing children.

Q. I'm going to get back in due course to the use of that word, by astute do you mean clever?

A. Yes.

Q. Do you mean smart, intelligent, I'm not sure what you mean by the word "astute"?

A. Well I would say that she wouldn't be as quick to assess a child.

Q. That was what you perceived to be one of her weaknesses, did that change over the course of the nine months under your leadership?

A. No, it didn't.

Q. Any other strengths or weaknesses that you can give me with respect to Marianna Christie?



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A. She was a good worker.

3

Q. Yes.

4

A. She was a nice person.

5

Q. Anything else you would like to
tell me?

6

A No.

7

8

Q. Did you know anything of her
formal education before she became a registered
nursing assistant?

9

10

A. No, I didn't.

11

12

13

14

Q. The other nursing assistant was
Janet Brownless and I understand she was a recent
graduate who joined your team I believe sometime in
early September of 1980, is that your recollection?

15

16

A. She was never really assigned to
my team in particular. She worked a lot with our
team, but she was a float.

17

18

19

Q. Did you feel that in the course
of this nine month period ending in March, that she
was a member of your team as you described it?

20

A. Yes.

21

22

23

24

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Q. And could you tell me anything
about any strength or weaknesses that you perceived
in Janet Brownless throughout the course of those
nine months that she worked for you?



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A. Her strengths?

3

Q. Her strengths and weaknesses

4

please?

5

A. She was also a good nursing

6

assistant. She was reliable. She was eager to learn.

7

She was good at asking questions that she was unsure
of. She would go for appropriate help.

8

Q. You mean she was good at

9

recognizing problems and recognizing things insofar

10

patient care was concerned, and then if she couldn't

11

provide this service or didn't know the answer she

12

would look for help from others?

13

A. Yes.

14

Q. Yes, anything else?

15

A. Not really, no.

16

Q. Any weaknesses that you perceived.

17

A. No.

18

Q. Dealing with the next registered

19

nurse, that was Sui Scott. My understanding is that

20

she had been out of nursing for some ten or eleven

21

years before she came to the Hospital for Sick

22

Children, I believe it was in early 1980 or

23

perhaps the latter part of 1979, is that your

24

understanding?

25

A. Yes.



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Q. And she was older than you were?

3

A. Yes.

4

Q. Can you tell me what you thought of her strengths and weaknesses during the course of those nine months that she worked for you?

6

7

A. She had been out of nursing for quite a while. She was just getting back into the nursing profession. She was not confident in her skills as a nurse. She was very -

8

9

10

THE COMMISSIONER: You say she was not competent?

11

12

THE WITNESS: Not confident.

13

THE COMMISSIONER: Oh, not confident. Yes.

14

Q. This question of skills was that one of her weaknesses, if I can use that expression, was a difficulty in measuring and giving out medication in paediatric proportions to the children on the ward?

15

16

17

A. She did have a lot of trouble with medications.

18

19

Q. Yes. A lot of trouble, does that mean she had difficulty measuring and ascertaining the correct doses, or was it more than that? In other words giving the wrong medication, can you tell me something about that, if anything?

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A. It was basically she had trouble

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calculating medications.

Q. Anything other than, that as far as you are aware, during the course of that nine month period.

A. She had given out wrong medication on one time.

Q. Was that the occasion involving the digoxin, involving Pacsai and Inwood?

A. No it wasn't.

Q. When you say the wrong medication, when was that, can you remember? I don't want to get into the name of the child but I would like to know when and what type of medication it was that she had inadvertently given?

A. It involved two digoxin doses for two children in the same room.

Q. When was that, do you remember?

A. I don't know, it may have been just shortly after Susan's arrest, I'm not sure.

Q. I want to know during the nine month period with which we are concerned, was that sometime after March 25th?

A. I think so.

Q. Well up to March 25th were you aware of any errors, drug errors, that she committed at least when working for you as team leader in that



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1

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nine month period.

3

A. I can't recall any right now.

4

Q. Did you have another - did you

5

perceive that she had also a problem of analyzing a

6

patient's problems and then taking the necessary

7

responsive nursing step?

8

A. At times, yes.

9

Q. Any other weaknesses that you

10

thought that she had during the course of those

11

nine months?

12

A. She was very intimidated by a

lot of people.

13

Q. Do I take it that the manifestation

14

of that was more to the point that while she might

15

have something on her mind, she would not speak up?

16

A. Right.

17

Q. And did that include you as well

as Susan Nelles?

18

A. Well she would come to me before

19

she would go to anybody.

20

Q. Do I take it the fact that she

21

didn't want to speak up, that was to other people

22

aside from you?

23

A. Yes.

24

25



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Q. I understand. Any other

3

weaknesses that you thought Sui Scott had?

4

A. Well, she was just learning

5

cardiac -- periatric cardiology so she was in the
learning stages of that.

6

Q. All right. So that we have

7

dealt now with three members of your team, if you

8

regard Janet Brownless as one of the members. The

9

next member of the team was Susan Nelles, and we know

10

that she was a 1978 graduate with a Bachelor of

11

Nursing Science from Queen's University. You were

12

aware of that when she joined your team in the month
of June 1980?

13

A. Yes.

14

Q. And that was a four year

15

course?

16

A. I believe so.

17

Q. And can you tell me that

18

during the course of the nine months what you thought
of her strengths and weaknesses as a registered nurse?

19

A. I found her to be a very

20

competent nurse, very caring. I trusted her. I

21

trusted her to take direction. I was able to delegate

22

responsibility to her and know that it would be

23

carried out. I could ask her to do something and be

24

25



Trayner
cr.ex. (Percival)

1
EE2 2 confident that it would be done.
3 Q. Those are all what I would
4 consider strengths. What did you consider weaknesses
5 during the course of the nine months?
6 A. Sometimes it would be her
7 outspokenness.
8 Q. Outspokenness to you or to
9 others?
10 A. To me and to others.
11 Q. About what?
12 A. Some of it had to do with
13 Hospital procedure.
14 Q. Was she critical of Hospital
15 procedures?
16 A. She would question Hospital
17 procedures as to why they had to be the way...
18 Q. Did you ever hear Marianna
19 Christie or Janet Brownless or Sui Scott do that?
20 A. No, I don't think so.
21 Q. Did you ever do that during
22 the course of those nine months --
23 A. No.
24 Q. -- question Hospital pro-
25 cedures?
A. I don't believe so.



EE3

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Q. So that was what you thought was a weakness. Any other weaknesses that you thought Susan Nelles exhibited, at least in your presence and during the nine-month period?

A. Not really, no.

Q. Well, you have given me the impression, and correct me if I am wrong, you felt that Susan Nelles certainly had the attributes of being a very competent nurse and aspiring to be a team leader?

A. Yes.

Q. And with a few more months' experience she would have been a team leader, at least so far as you were concerned?

A. Well, I -- yes.

Q. And let me deal lastly with you. You were the team leader. The captain of the team if I can call it that. You graduated in a two year course from George Brown College associated with St. Joseph's Hospital here in Toronto. What year was that, Mrs. Trayner?

A. I believe it to be 1976.

Q. And then do I take it up until the month of June 1980 you would have had about four years' nursing experience?



EE4

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2

A. Yes.

3

Q. Both at St. Joseph's Hospital
as well as The Hospital for Sick Children?

4

A. Right.

5

6

Q. Do I take it that aside from
Marianna Christie, who had some 20 years as a
Registered Nursing Assistant, you were the most
experienced as a Registered Nurse in relation to the
number of months, if not years, working in hospital?

7

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10

A. On my team?

11

Q. Yes.

12

A. Yes.

13

Q. Now I gather in the course of
preparing to come to give evidence before this
Commission, Mrs. Trayner, that you have from time to
time read media reports with respect to the evidence
that was given here?

14

15

16

17

A. That is correct.

18

19

20

Q. From time to time have you
read transcripts of the evidence that was given by
other members of your team and other nurses in these
proceedings?

21

A. I read a little bit of it, yes.

22

23

Q. All right. Well, in particular
did you read the evidence of Marianna Christie?

24

25



Trayner
cr.ex. (Percival)

EE5

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A. No, I didn't.

3

Q. Did you read the evidence of

4

Janet Brownless?

5

A. No.

6

Q. Did you read the evidence of

Sui Scott?

7

A. I had some summaries of Sui

8

Scott's evidence.

9

Q. All right. Did you read the

10

evidence of Susan Nelles?

11

A. I - not her whole -- all her

12

evidence, no.

13

Q. Well, is it your understanding

14

that so far as three of the members of your team

15

that Christie, Brownless and Sui Scott have given

16

evidence before this Commission to the effect that

17

they recognized the unusual pattern of baby deaths

18

long before the end of this nine-month period? Is

that your understanding of the evidence?

19

A. Yes.

20

Q. You understand that the

21

question of the patterns had to do with the similarity

of the onset of terminal events --

22

A. Yes.

23

Q. -- that the deaths were -- the

24

25



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EE6 2 babies were dying on your ward and with your team --

3 A. Yes.

4 Q. -- they were occurring after
5 midnight on the long night shifts that your team
6 was working?

7 A. I am not sure how much they
8 knew at that time.

9 Q. All right. In any event you
10 were aware that there was increasing baby deaths?

11 A. I was?

12 Q. Yes. They have given evidence
13 that they were aware there were increasing baby
14 deaths. You are aware they have given that evidence?

15 A. I knew that we had more
16 deaths than I had up on 5A.

17 Q. No, I'm not asking you, Mrs.
18 Trayner. I just want to know -- are you aware of the
19 fact that in this Commission those three members of
20 your team have given evidence that they were aware
21 as they went through the nine-month period that you
22 were getting more and more baby deaths?

23 A. Yes.

24 Q. Are you aware also that they
25 had testified that very often the baby deaths occurred
after the lunch break when the nurses had been



1
EE7 2 relieved; the nurses that had been particularly
3 caring for the children?

4 A. Yes.

5 Q. And you are aware that quite
6 apart from those three members of your team that have
7 given that evidence, you are aware from other nursing
8 witnesses who have given evidence in this Commission
9 that they were certainly aware of the pattern of
10 increasing baby deaths long before the end of the
11 nine-month period?

12 A. Yes.

13 Q. Now, as I understand your
14 evidence in this Commission, Mrs. Trayner, you have
15 told both Mr. Lamek and Mr. Hunt that you yourself
16 did not recognize any unusual pattern until about the
17 first or second week of March. Is that accurate?

18 A. Yes.

19 Q. And I believe that at some
20 point in time and I think that Mr. Lamek asked you
21 this, you were asked back on April 24th in Volume 134
22 as to why the three members of your team recognized
23 the unusual patterns long before you did and you
24 didn't - and I just want to refresh your recollection
25 as to what you said. At page 951:

"Q. Sui Scott was in the middle of



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it; she was a member of your team and she had recognized by the end of August that deaths were happening while your team was on duty. She indicated to us, and I am referring to Volume 118, that by the time you had returned from your honeymoon, which was a few weeks into September, everybody was aware what was happening because of all the remarks about the bad luck, et cetera. So she was someone who was right in the centre of it and it didn't seem to prevent her from becoming aware of it."

"A. She is probably more astute than I was, more clever."

"Q. She was more astute than you were?"

"A. Yes."

And you remember those questions by Mr. Hunt and your answers?

A. Yes.

Q. And one of the things that I remarked about is the word "astute", something that -- is that word often used by you, because you have used



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it again this afternoon, and I was wondering is that a word that you are comfortable with and have used on previous occasions?

A. On previous occasions, yes.

Q. Yes.

A. Not --

Q. I was struck by it because I don't think I have ever heard it in this Commission except on one previous occasion and that was when Susan Nelles gave evidence on almost the identical question, and let me read it to you. This is when she gave evidence at 8441, Volume 125, Mr. Commissioner, starting at the top of the page, and this is again by Mr. Hunt's cross-examination:

"...the bulk of the evidence we have heard suggests that people were becoming aware from any point in July through to the late fall of the fact that there was an increased number of deaths, that they were occurring at night, in a particular time frame at night, in the presence of the same team. That your suggestion that it was March when you first realized these deaths were occurring at night



EE10

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is difficult for me to understand given the experience of the bulk of the members of the team that you worked with during that period."

"A. It is my feeling that we are dealing very much in hindsight at this point in time, and it is difficult for me to recall exactly when the feelings arose in terms of what my thought process was three, three and a half years ago. It seems to me that I did not really bring that kind of, sort of grouping of the deaths as being at a certain time frame, or being with our team particularly, until March. I guess maybe I was not as astute as my colleagues."

"Q. What you are saying is you didn't appreciate the fact that these deaths were occurring by and large at night, in the early morning hours, until some time in March?"

"A. I do not remember making that link, no."



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Now, Mrs. Trayner, I was struck by the similarity of the responses and the use of the same terminology, and I was wondering whether prior to the time you gave evidence here you had met with Susan Nelles and talked about the response that you would give to that question about your lack of appreciation of the patterns of the deaths. Did you?

A. I have not seen Susan since her preliminary hearing.

Q. So do I take it then that if it is a fair inference that the terminology that was used was identical that you may have picked it up from reading the transcript?

A. I may have.

Q. Yes. Well, did you?

A. I don't know. It's a word that I have used.

Q. Well--or did you say to yourself, Mrs. Trayner, it seemed to have gone all right by Miss Nelles when she was answering questions of Mr. Hunt; I will try it on again for size?

A. No, I didn't.

Q. All right. All right. Let's try something else then.

Mr. Hunt cross-examined you again also



EE12

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about your lack of recollection about many of these baby deaths, and we will try this again: On April 24th, your evidence at Volume 134, page 954. Mr. Hunt is cross-examining you again on April 24th:

"Q. And other than that, essentially your recollection of any of those deaths in that period up until you went on your holidays is virtually nil. My question to you is, someone who was keenly interested in what was going on, someone who was going over these events in your mind, looking for a clue, how is it that you can now recall nothing about them?"

"A. Well, it's three and a half years later, almost four."

"Q. These were events that had tremendous impact on you, as you have already said."

"A. Well, yes they do, but a lot has happened in three and a half years; there is no reason to continually rehash it and to make a note of it and to remember it."



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Do you remember being asked those question and giving those answers?

A. Yes.

Q. Now may I take you to what Miss Nelles said on the same topic about her lack of recollection, and this is in Volume 126, at page 8596, Mr. Commissioner. I guess I should start really on 8597. This is what Miss Nelles said, and this is as a result of a question from myself:

"Q. I can see that if you go back in July, but as we get closer in March when the events surely should have been far fresher in your mind at the time you were arrested, why you can't remember for instance Warner and Gionas, why you can't remember Gosselin."

"A. I just -- I had no reason to question anything that took place, and as I say, we are three and a half years away from that and it was never brought to my attention."

Now again I put the question to you: The responses to those identical questions are almost similar. Have you collaborated with Miss Nelles in



EE14

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relation to formulating an answer to that question?

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A. No, I haven't.

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Q. All right. Did you take the answer from her evidence and then decide to give it before this Commission in order to say why you could not remember?

7

A. No, I didn't.

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Q. You didn't think to yourself it was a good answer for her; she didn't seem to lose on it. It should be a good answer for me? Did you think about that?

12

A. No, I didn't.

13

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Q. May I deal with another matter. You as a nurse and you on a team I gather were working in that nine-month time period on a series of long nights, long days?

16

A. Yes.

17

Q. And those were 12-hour shifts?

18

A. Yes, they were.

19

20

Q. And I gather that however you get it, it becomes a situation where you would work somewhere between 37½ hours to 40 hours a week?

21

A. That is correct.

22

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Q. And whether you worked more one week and less the next, that's the average over the

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EE15 2 course of many months?

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A. Right.

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A. Okay.

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Q. And what I am interested in doing is this, and getting to the amazing statistics that we have heard and Mr. Hunt alluded to those: your team, if we assume there is 168 hours in a week, a patient can be exposed to your team less than 25% of the time by just dividing 168 by less than 40; is that right?

Q. All right. So the odds of a patient ending up being treated by you, your team, on the cardiac ward in 4A is 1 in 4?

A. Right.

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FF/BM/ak

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Q. So, every time your team was on there were three other teams that would consistently have the same exposure on an hourly basis to that same child?

A. Right.

Q. Is that right?

A. Yes.

Q. Now, based upon that, and you have read the Atlanta Report?

A. Yes.

Q. And you know something now about the statistics which are shown rather dramatically on Exhibit 383, and you have that in front of you, do you?

A. Yes.

Q. Can you give me any explanation as to why so many of these babies had the onset of their terminal events and their deaths in most cases while your team was on duty on long nights?

A. No.

Q. If the odds are 4 to 1 against it?

A. No, I can't.

Q. You didn't have an explanation then I gather?

A. Right.



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Q. Do you have one now except that what you have said to Mr. Lamek it was a matter of coincidence and bad luck. I think you said that earlier in your evidence?

A. Yes.

Q. And that's the explanation that you give to this Commission as to why they were happening on your ward, on your shift and with your team and after midnight in most cases?

A. Yes.

Q. Coincidence and bad luck?

A. That and the only other possibility was that somebody was using our schedule.

Q. We'll get to that shortly. Now, do I take it, and I tried to get this evidence down, but I'm not sure. At some point in time in being responsive to a question by Mr. Lamek or perhaps it was Mr. Hunt you were asked at some point in time whether it was in the month of March, and I guess it must have been according to your evidence, at some point in time you became aware of the increasing incidents of baby deaths and the fact they were always happening with your team and I think that your evidence was that you asked the physicians for an answer?



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FF3

A. Yes.

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Q. Do you remember saying that?

4

A. Yes.

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Q. And they gave you the explana-

6

tion, well, they were very sick babies.

7

A. Yes.

8

Q. Did I take that down right?

9

Was that your response or was that their response
when you started asking the physicians, why are they
always happening on our shift and with our team?

10

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A. That was the answer when we

12

questioned each death.

13

Q. All right.

14

A. Individually.

15

Q. All right.

16

A. I do remember speaking to

Michelle Heilbut.

17

Q. And that is a doctor, sorry?

18

A. I'm sorry, yes.

19

Q. Thank you.

20

A. After Kristin Inwood had died.

21

Q. And that's in the month of

March, 1981?

22

A. Yes. That was about why they

23

were dying at night on our shift.

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Q. All right. And her response was that people die more often at nights rather than days?

A. That's right.

Q. Did you believe that?

A. Well...

Q. Well, she said that, did you believe it?

A. Yes.

Q. And were you satisfied with the answer?

A. Yes.

Q. Well, did that really, the question, if you have a very sick baby, the baby is usually quite sick all the time, he's not just selective of being sick right after midnight, is he?

A. That's right.

Q. And if the odds are 4 to 1 he's going to be sick on all four teams that are looking after him in the course of one week, are they not?

A. The child may be, yes.

Q. Well then that's not much of an answer if you were satisfied with it, is it, given the four teams looking after a baby?



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A. Well, we don't know when the child exhibited signs of --

Q. Well, are you suggesting that under the circumstances if the answer was they were very sick babies that they were only very sick when your team was looking after them on this ward. You're not suggesting that surely?

A. All I'm suggesting is that we were concerned, we asked Dr. Heilbut, she wasn't concerned, she wasn't surprised and we took it at face value.

Q. I know, but ma'am, I am going to take the next thing, that's something else. I'm talking about the first response that you got from the doctors that they were very sick babies. That still didn't answer why, if you are only exposed to them 25 per cent of the time that they are always going into critical situations and dying on your ward when your team was on, does it?

A. It did at the time.

Q. All right. And then the second response after Kristin Inwood died in March was the fact, well, patients die more often at night than day.

A. Right.



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FF6

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Q. You weren't always working
long nights?

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A. Right.

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Q. And if you look at the
statistics, ma'am, some of the teams that worked
long nights didn't have any deaths occur when they
were working.

9

A. Yes.

10

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Q. How would that satisfy you
then if you were aware of that?

12

A. It just did, we had no reason
to question it.

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Q. Well, surely there was a whole
lot of other people out there questioning it. Maybe
you and Miss Nelles were the only two who weren't
but we have heard a plethora of witnesses who have
given evidence here who were questioning it and
wondering what was happening. Now, is it a
question that we should say you and Miss Nelles
were the only ones who were left in the dark and
you were stupid, you were not as clever as all these
other witnesses who apparently recognized the pattern
long before you did?

23

24

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A. I never saw it as a pattern
and I never saw it as anything unusual. The doctors



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were not surprised when we asked them.

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Q. I'm concerned about this,

ma'am. If you think your colleagues were more astute than you were doesn't that seem a little bit to rankle you at this point. You were the team leader looking after this team and looking after these babies. Do you feel threatened now by thinking they knew something that you didn't know?

A. No. I don't know if maybe they are dealing in some hindsight.

Q. Well, I don't know, they didn't talk about hindsight when they gave evidence under oath here. Is that what you are saying is the only explanation as to why all these nursing witnesses said, yes, we recognized the problem and we were asking questions but we were getting no answers. They were talking about back in July of 1980. You are talking now when we are down to baby 26 as far as I could see of babies that died on the Wards 4A/4B and were the 26th successive unsuccessful resuscitation that you participated in. That's what I'm talking about.

A. Yes.

Q. And it never struck you until March?



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A. No, it didn't.

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Q. Now, I want to deal with one thing and I am not sure whether these have been made exhibits. At some point in time following the events of March 25th and you were being questioned by the police you prepared some personal notes, did you?

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A. I made some notes on March 25th.

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Q. Yes. And those notes were in fact referred to by you at the time of the preliminary hearing, and I'm not sure whether they were made an exhibit but I have a photostatic copy of this. Would you like to take a look at that and tell me whether these notes are in your handwriting please?

21

22

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A. Okay. Yes, they are.

Q. All right. And when do you think, Mrs. Trayner, that you made these notes?

A. It was on March 25th about 3 o'clock.

Q. All right. Mr. Commissioner, may we have this marked as an exhibit and we will deal with it.

You made these on March 25th and is



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2

this at the end of the five or six hours that you
were with the two police officers in your apartment?

4

A. Yes, it was.

5

Q. And I am interested in that.

6

Do I take it then that on March 25th when the
police officers left on that very day you made these
notes?

8

A. Yes.

9

10

Q. All right. So, do I take it
that from the time you commenced the notes to the
time you finished the notes you never had the
chance to consult a lawyer?

11

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13

THE COMMISSIONER: I'm sorry,
excuse me, Mr. Percival, it is Exhibit 396.

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MR. PERCIVAL: Thank you.

16

---EXHIBIT NO. 396: Phyllis Trayner's notes dated
March 25th, 1981.

17

18

MR. PERCIVAL: Q. So, do I take it
they left at about, I think you have given evidence
Staff Sergeant Sangster left at about 2 or 3 o'clock.

19

20

A. About 20 to 3:00, yes.

21

22

Q. And as soon as they left did
you start to prepare these notes?

23

A. It was right after I phoned

24

25



1
2 Elizabeth Radojewski.

3 Q. And you phoned her, did she
4 suggest you start making these notes?

5 A. Yes, she did.

6 Q. And for what purpose?

7 A. Just to have them and to have
8 a memory of what was said during the interview with
9 the police.

10 Q. Do I take it Mrs. Radojewski
11 had asked you to put down as well as you could
12 recall what you had said to the police officers in
the course of the interview in question?

13 A. Yes, she did.

14 Q. And to keep it?

15 A. Yes.

16 Q. And is that what you did?

17 A. Yes.

18 Q. Can you tell me, since the
19 events of March 25th, 1981 and up until the present
20 time have you prepared any other notes relating to
21 these events in the nine month period that you have
22 used to refresh your recollection before giving
evidence before this Commission?

23 A. They were notes that I did
24 with my lawyer George Strathy.
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Q. No, but I want to know, I don't want to tread into those waters but are these notes that were made some short time ago, and I don't want to talk about what is in them.

A. Yes.

Q. All right. Within the last --

A. To prepare for this.

Q. I beg your pardon?

A. To prepare for this.

Q. Are we talking in terms of the last two months?

A. Two to three months, yes.

Q. And are these notes based upon a number of documents that you had before you or is it based upon your independent recollection of the events during the nine month period?

A. It was a lot to do with the independent recollection but I did have the documents or charts in front of me.

Q. All right. When you say charts, are you talking in terms of the charts of the 29 babies who died when you were on the wards?

A. Yes.

Q. So, you had the chance then I gather to review the 29 charts before you gave



1
2 evidence here?

3 A. Yes.

4 Q. Thank you. Have you used any
5 of those notes to refresh your recollection, say,
6 before you started giving evidence last week?

7 A. No, I didn't.

8 Q. All right. And there is nothing
9 else that you can -- So, do I take it that those
10 notes, Exhibit 396 were prepared on March 25th and
11 any other notes you prepared were prepared in the
12 year 1984 in conjunction with your lawyer?

13 A. Yes.

14 Q. There are no other notes
15 around that you have?

16 A. I don't believe so, no.

17 Q. Thank you. Now, I want to
18 start if I may, and you have in front of you I
19 believe Exhibit 383 which is the deaths that were
20 categorized by Atlanta showing the dates of the
21 death of the individual babies and the categorization
22 and your initial is the first one, PT. You are
23 familiar with this particular exhibit?

24 A. Yes.

25 Q. Now, the first baby that died
was on June 30th, 1980 as I see and you are aware of



Trayner, cr.ex.
(Percival)

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the fact that that baby's terminal events started at about 5 or 6 o'clock in the morning when your team was on 4A and this baby started having problems at about 5 or 6 o'clock and he was on 4B. Is that your recollection?

A. Well, from the evidence that's out, yes.

Q. All right. And I think that you have very limited recollection of the death of that baby and what happened before you went off shift at about 7:00 or 7:15, is that correct?

A. Yes.

Q. Now, when had you and Nurse Susan Nelles first started to work with reference to the death of that first baby with which we are involved in this nine month period? Was it shortly before?

Well, may I tell you I have looked at the assignment sheets and I am going to tell you what's in them and your counsel will check them I am sure. But you first started working with Susan Nelles on your team on long days on June 18th, that's approximately 12 days before the first baby died. Is that your recollection, generally speaking?

A. My recollection was it was



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some time in June, I don't know the date.

3

Q. All right. Well, you worked

4

long days on June 18th with Susan Nelles, you

5

worked June 19th long days, the next day you worked

6

on June 23rd on long days and Susan Nelles was the

7

acting team leader. Do you remember that?

8

A. Not really, no.

9

Q. On June 24th you again worked

10

in conjunction with Susan Nelles, again she was

11

acting as the team leader. Do you remember that?

12

A. No, I don't.

13

Q. Well, up until June 24th

14

you had never worked on long nights with Susan

15

Nelles and then there was a progression of three

16

nights in a row, June 27th you worked long nights

17

with Susan Nelles, June 28th you worked long nights

18

with Susan Nelles and on the third long night shift

19

when you worked in conjunction with Susan Nelles

the first baby death with which we are concerned

20

occurred on the combined wards of 4A and 4B.

21

Now, even to the present time have

22

you ever reflected or thought about what a fantastic

23

coincidence that is? In other words, you start

24

working in conjunction with a nurse and very shortly

25

thereafter, the third long night shift the first baby



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2

death of the 29 with which you were concerned
occurred?

3

4

A. No, I didn't.

5

Q. Not even to the present time?

6

A. No.

7

Q. So, do I take it then if you
haven't thought about it you have no responses to
the amazing coincidence that is?

8

9

A. That's right.

10

11

Q. I want to deal with another
matter if I may having to do with the death of
a nine-day old baby that occurred two days before
Christmas, Stephanie Lombardo. I think that you
told both Mr. Lamek and Mr. Hunt that you have
absolutely no recollection of this baby even though
it was just before Christmas that this young baby
died?

12

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A. Yes.

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Q. And I gather that certainly some time in the course of the past two or three months you have had the opportunity of reading the chart of Stephanie Lombardo, which has been marked, Mr. Commissioner, for your assistance, Exhibit 78 in this Commission. Did you read through that for the purposes of trying to refresh your recollection as to what you did and what you didn't do?

A. Yes.

Q. And I read through it too, ma'am, and I noticed that throughout this young baby's life at the Hospital for Sick Children your signature occurs in only one location and that is on page 14 when you signed on the Hospital for Sick Children Death Check List, is that your recollection of the chart?

A. I don't have any recollection of that baby.

Q. I understand, ma'am. I am asking you, you have looked at the chart, is it not true that the only signature that you have, the only notation that you have in here is on your completion of the Hospital for Sick Children Death Check List involving Stephanie Lombardo?

A. I don't think I know that.

Q. Well, would you look at it for



1

2

me please.

3

A. Sure.

4

Q. Page 14, this is the standard

5

Hospital for Sick Children Death Check List and it

2

6

is dated December 23rd, 1980 and it is the signature

7

Mrs. P. Trayner (RN), is that your signature?

8

A. Yes.

9

Q. Thank you. Are you aware of

10

anywhere else in the entire chart of this young child

11

that your name or any of your markings appear in

12

relation to this baby?

A. Not that I am aware of.

13

Q. Right. Now I think that you

14

have been asked, and I am not sure whether it was

15

by Mr. Lamek or Mr. Hunt, that you do recall that

16

there were very few babies before Christmas when you

17

were working with a nurse by the name of Ganassin,

18

is that it?

A. Ganassin.

19

Q. Ganassin, thank you. We know

20

that she has since that time married and her married

21

name is what?

A. Bouche.

22

Q. And Nurse Ganassin was working

23

in conjunction with you shortly before Christmas in

24

25



1

2

a very very, how shall I say it, non-busy cardiac
ward at the Hospital for Sick Children that evening?

4

A. Yes.

5

Q. And it is your recollection that
you did in fact work with her and just the two of you were
on 4A, you know that from looking at the chart?

7

A. Yes.

8

Q. The WIN sheets show that Baby,
as Mr. Lamek has correctly pointed out to you, shows
that Miss Ganassin had six babies two of which were
in Room 418, and you had two babies to look after and
you were also team leader?

12

A. Right.

13

Q. Is that your recollection?

14

A. I don't recall that night, it
is from what people have told me.

15

16

Q. Well I want to see if I can
get more to it, because I think that perhaps if
anyone, let alone Mr. and Mrs. Lombardo, would like
to know a little bit more about it. You are aware
of course that that baby was a transfer from the ICU
after having an operation, and in fact that baby was
transferred to Ward 4A on, I believe it was December
the 22nd, is that your recollection? Please ma'am,
if you doubt me would you please look at the chart

23

24

25



1

2

and tell me if that is accurate?

3

A. Okay, you are correct.

4

Q. And do I take it that the last

5

nursing note in that chart is by Nurse Ganassin, is

6

that correct, relating to this child who died?

7

A. Yes, it is.

8

Q. The nursing note is on December

9

the 23rd in the night shift the baby having died at

10

A. Right.

11

Q. Is that your understanding?

12

A. Yes.

13

Q. Well I wonder if I may, to assist

14

the Commission and to perhaps assist your recollection

15

of the events, I want to try to go with you, if I

16

may, through the evidence of the only other nurse

17

that was on 4A and she gave evidence on April 8th in

18

Volume 27. Perhaps I can have the chart now and I

19

will trade you with the Preliminary Hearing Transcript

20

and I want you to follow with me that nurse's

21

recollection of the fateful night that Stephanie

Lombardo died and see if it refreshes your recollection,

22

would you do that for me?

A. Sure.

23

Q. Now if I may start at page 61,

24

25



1
2 Nurse Ganassin says that she remembers the baby, at
3 line 16, do you see that?

4 A. Yes.

5 Q. And at the top of page 62
6 she was asked: "What time did you first see Stephanie
7 on December 22nd?

8 A. When I came on around 7:30."

9 Q. Line 14:

10 "What team were you on that particular
11 night?

12 A. Myself and Phyllis Trayner.

13 Q. Was Phyllis Trayner the team
14 leader?

15 A. Yes.

16 Q. Why was it just two of you on
17 the team that night?

18 A. It was Christmas break and most
19 of the patients were sent home, the
20 well enough ones, so the load is a lot
21 lighter.

22 Q. How many patients did you look
23 after that particular night?"

24 Miss Ganassin says:

25 "A. I had three that night."

Is that your recollection?



1

2

A. I don't have any.

3

Q. Thank you:

4

"Q. What were your patients?

5

A. I had two in 418 and one in 425."

6

The top of page 63:

7

"Q. What about Phyllis Trayner, how many patients did she have that night?

8

A. I don't know."

9

She goes on to describe the fact that the baby was not on any drugs but was being given heparin by sage pump intravenous, do you remember that?

12

13

A. No, I don't.

14

Q. Page 68 she was asked:

15

"Q. How often was this baby being fed?

16

A. Every three hours.

17

Q. You came on at 7:30, when would her first feeding be after you arrived?

18

19

A. Nine o'clock.

20

Q. What did you feed her?

21

A. SMA or a formula, SMA 27.

22

Q. How much of that would you give her at 9 o'clock?

23

A. I think the order says an ounce

24

25



ANGUS. STONEHOUSE & CO. LTD. Trayner, cr.ex.
TORONTO, ONTARIO (Percival)

1

2

"every three hours."

7

3

You remember that was in the chart,
you have looked at the chart?

4

5

A. Yes.

6

Q. Is that right?

7

A. Yes.

8

Q. Page 69:

9

"Q. Where would that formula be
stored?

10

A. This particular one would have
been in the refrigerator in our pantry.

11

12

Q. Is that your recollection as to
where that type of formula would be in
fact stored?

13

14

A. Yes."

15

Q. The top of page 70:

16

"This particular bottle, how would you
know it was for this particular baby?

17

18

A. The name would be on it, the
baby's name."

19

20

Q. The top of page 70, Mrs.

Trayner.

21

A. Yes.

22

23

Q. Is that an unusual thing to
have a bottle of formula with the baby's name on it?

24

25



1

2

A. No, it is not unusual.

3

Q. Was that the exception more than
the rule?

4

5

A. It would be hard to say.

6

There would be maybe one month there where all the
babies, or most of the babies would have special
formula, and then there may be times where only one
infant would have a special formula.

7

8

9

Q. And there may be 10 others that
would be having straight ordinary formula, is that
right?

11

12

A. Right.

13

Q. At the bottom of page 70,
Miss Ganassin was asked:

14

15

"Q. How did the baby take the
formula at 9 o'clock?

16

A. I fed her by mouth.

17

Q. Yes.

18

Q. I remember her she was doing
well and she fed well."

19

20

Q. The top of page 71:

21

"Q. That was 9 o'clock, when would
you have fed her again?

22

A. At midnight.

23

Q. Yes.

24

25



1

2

"A. She had another feed and took
it well.

3

4

Q. When would you have fed her
again after midnight?

5

6

A. At 3 o'clock, she took that well."
At the bottom of the page:

7

8

"Q. Did you leave the room after
you fed her, do you recall?

9

A. Yes, I did.

10

11

Q. Any particular reason for
leaving the room?

12

13

A. I recall having a friend
visiting me from another floor, we were
sitting in the nursing station.

14

15

Q. Do you know who the friend was?

16

A. Yes, Paula Griffin.

17

Q. She is a nurse is she?

18

A. Yes.

19

Q. Where does she work?

20

A. On the orthopaedic floor, the
sixth floor."

21

22

23

24

25

I am going to ask you, ma'am, do you
remember Paula Griffin coming down to the fourth floor
from the sixth floor and visiting that night with
Miss Ganassin?



Trayner, cr.ex.
(Percival)

1

2

A. No, I don't.

3

Q. Do you know who Paula Griffin

4

is?

5

A. No, I don't.

6

Q. None of that refreshes your

recollection of that night?

7

A. No.

8

"Q. Later on when you were in the

9

nursing station did you know where

10

Phyllis Trayner was?

11

A. No.

12

Q. Had you seen Phyllis in Room

13

418 before you went to the nursing

14

station and talked to your friend

15

A. No, I didn't see her then."

16

Q. The middle of page 73:

17

"Q. You were talking to your friend

18

and did something happen when you were

19

there?

20

A. Phyllis came out to me and told

21

me to come quick. We went to the room

22

and the baby was in distress.

23

Q. That is the Lombardo baby?

24

A. Mm-mm, she said to "come quick".

25

Yes, I remember that.



Trayner, cr.ex.
(Percival)

1

2

"Q. Did you go into Room 418?

3

A. Oh yes.

4

Q. What did you find when you got
in there?

5

A. The baby was quite blue and
Phyllis had me listen to the apex and
it was irregular at the time."

6

7

8

Q. Do you remember that having
discovered this baby with the apex being irregular
and being quite blue, two days before Christmas?

10

11

A. No, I don't.

12

Q. You have no recollection
whatsoever of that morning at all?

13

A. No, I'm sorry, I don't.

14

Q. We have the nurse who was in
charge of that baby who said that the baby was doing
well and fed it last at 3 o'clock, and then at
3:30 apparently you discovered, the top of page 74:

15

16

17

18

"Q. What time would it have been
that Phyllis called you into the room.
Do you recall that?

19

20

A. It was around 3:30 at that time."

21

Do you have any recollection, have I
assisted you at all in refreshing your recollection
about the nights of December 22nd/23rd when Stephanie

22

23

24

25



12

1

2

Lombardo died?

3

A. No, I have no recollection.

4

Q. The only reason you would be

5

in 418 I suggest is as team leader you were making

6

rounds and you found this baby blue, while your co-

7

worker was sitting talking to a friend at the

8

nursing station, that is what the evidence says, do

9

you agree with me?

10

A. That would be one reason why

I would be in.

11

Q. Well, if that happened wouldn't

12

you say "Well, where were you Gloria, why weren't

13

you there looking after that child. Why are you out

14

here chatting with your friend", do you remember

15

saying that to her?

A. No, I don't.

16

Q. Well the baby died at about

17

4 o'clock, is that your recollection?

18

A. It would be from the chart,

19

I have no clear recollection of that baby.

20

Q. Well you participated in the

resuscitation?

21

A. I probably did.

22

Q. Well you were the team leader

23

on 4A and you sure would be there, front row and centre

24

25



Trayner, cr.ex.
(Percival)

1
2 would you not, ma'am?

3 A. Yes, I would.

4 Q. And do I take it if you were
5 there and you called the Code 25 you participated in
6 the resuscitation and again it was unsuccessful?

7 A. Yes, it was.

8 Q. And that was a baby who was
9 nine days old, who died two days before Christmas
10 and you are saying to the Commissioner you have
11 absolutely and totally no recollection whatsoever
12 of the night that that occurred?

13 A. That's right.

14 Q. We are only up to December at
15 that particular point, Mrs. Trayner, and by that time,
16 and I am not going to go through it, and I suppose I should;
17 at that point you have gone through one, two, three,
18 four, five, six, seven, eight, nine, ten, eleven,
19 twelve, thirteen, fourteen, fifteen, fifteen
20 resuscitations, all of which were unsuccessful and
21 you can't remember this one, is that what you are
22 saying?

23 A. Yes, I am.

24 Q. Do I take it, and I will put
25 the same question to you as I put to Miss Nelles,
is it a question that one baby's death merges with



Trayner, cr.ex.
(Percival)

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2

the next one, with the next one, with the next one,
with the next one, is that what happens in your mind?

3

4

A. With some of the children, yes,
it has.

5

6

Q. Well it certainly did with
Stephanie Lombardo you will agree with me, because
you were there without any question according to the
chart.

7

8

9

A. Yes.

10

Q. And you have no reason to doubt
the evidence of Miss Ganassin?

11

12

A. No, I don't.

13

Q. Now you were aware, were you
not, ma'am, that Stephanie Lombardo was buried without
the benefit of an autopsy and you signed the chart,
you know that?

14

15

16

A. Yes.

17

Q. You saw that?

18

A. Yes.

19

Q. And during the course of the
preliminary hearing Stephanie Lombardo, as a result
of the Order of the Attorney General, that body was
exhumed, you were aware of that fact in February were
you not?

20

21

22

23

A. The police told me, yes.

24

25



1

2

Q. And you were aware of that when
you gave evidence in the preliminary?

3

4

A. Yes.

5

6

7

8

9

10

Q. And you were aware before you
gave evidence at the preliminary when being asked for
the first time about Stephanie Lombardo, that that
baby who had never been prescribed digoxin, who was
nine days old and on no medication, when exhumed was
chock full of digoxin. You knew that when you gave
that evidence at the preliminary?

11

12

A. Yes.

13

14

15

16

Q. And do I take it that under the
circumstances that the fact that you knew that and
that you knew that you were the one, one of two people
who were there under the circumstances -- can I start
again, Mr. Commissioner?

17

THE COMMISSIONER: Yes.

18

19

20

21

22

23

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25

MR. PERCIVAL: Q. Do I take it that
you are suggesting to the Commissioner the fact that
you knew that evidence, and you knew that you were
one of two nurses who were looking after that baby,
caused you some concern and the fact that you didn't
really want to remember what happened to Stephanie
Lombardo, because you were concerned that maybe you
might be implicated, is that the reason that you had



Trayner, cr.ex.
(Percival)

1

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the difficulty?

3

A. No, it is not.

4

Q. You don't have a mental block
because of that?

5

A. No, I don't.

6

7

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A. What I can remember is clear.

16

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Q. Now I am struck by your complete
and total absence of recollection of the events
involving the deaths of Baby Lombardo on December
the 23rd, 1980, when I find not 22 days later we
start talking in terms of the death of Baby Estrella.
You have given evidence, and given evidence, and
given evidence, page after page about what happened
with respect to the death of Baby Estrella, and you
seem to have a very clear memory of what happened
with respect to that baby, do you agree with me?

A. Yes. What I can remember is clear.

Q. Yes. You have a clear memory
though of a baby who died 22 days later after
Stephanie Lombardo. Can you tell me why is it that
Stephanie Lombardo is blocked out of your memory,
at least according to your recollection you had none,
and why is it that you remember as much as you do
about Janice Estrella, can you give me any indication?

- - - -



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25apr84
HH
EMTrc

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A. I really don't remember a lot about Janice Estrella. What I remember most about that baby is that Sui Scott called out for help at 3:30 I thought.

Q. Well, the question I have just put to you is not a surprising question. You were asked this on a previous occasion, were you not? In fact at the preliminary hearing, Volume 29, page 31. Mr. Wiley asked you at page 30, Volume 29 - page 30:

"Q. Can you explain..."
This was back on April 14, 1982, just slightly over two years ago, Mrs. Trayner, you were asked the same question by Mr. Wiley:

"Q. Can you explain why you can't remember what went on that night with respect to Baby Lombardo?"

"A. Because it is almost a year and a half ago."

"Q. Well, I appreciate that but I am just thinking that in your earlier evidence you gave rather extensive evidence with respect to the events surrounding the death of Baby Estrella which was some 20 days later."



HH2

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2

"A. Hm-mm."

3

"Q. Was Baby Estrella's death
more unusual than Baby Lombardo's?"

4

5

"A. Hm-mm."

6

"There's some children that
you remember more and more details
of the night."

7

8

I remember speaking to the
Estrellas that night, hm-mm, the
night before she died. I honestly
don't remember the Lombardos."

9

10

11

Now that was your response to

12

Mr. Wiley.

13

14

Now do I take it that your recol-
lection, and I was struck by your evidence a few -
I guess it was last week - that whenever you were
asked about do you remember a baby, you started
talking about, well, I remember Mr. and Mrs. so and so,
the parents. That's the first thing that you
remembered. It is as if you didn't have any
conscious recollection of the baby.

15

16

17

18

19

20

21

Do you remember saying that on a
series of answers to Mr. Lamek?

22

23

A. I can remember saying about the
parents.

24

25



HH3

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Q. Well, what concerns me is that that seems to be the only thing that refreshes your recollection, that you are struck by did I see the parents after the baby's death and therefore that is why I will remember it. If I didn't see the parents, then I have no reason to remember. It's as if the baby was there and gone and it is forgotten.

Do you agree with me that that's the response that you seem to have?

A. No, I don't think that's fair.

Q. Well, ma'am, that's going to be for some other persons aside from me and thee to end up making a judgment on, but every time you recalled, at least to Mr. Wiley - you were asked the same question:

"Was Baby Estrella's death more unusual than Baby Lombardo's?"

"A. Hm-mm."

"There's some children you remember more and more details of the night."

"I remember speaking to the Estrellas that night, the night before she died. I honestly don't remember the Lombardos."



HH4

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You don't talk about the baby, you talk about the parents.

Do you want me to point out with respect to the parents where you have problems -- where the same response came in the course of Volume 130 in response to Mr. Lamek's questions? Do you want me to read them to you?

A. I know what I said to Mr. Lamek.

Q. Well, all right. Let's start through them because at page 324 you were talking about Fazio --

THE COMMISSIONER: Of which?

MR. PERCIVAL: I'm sorry, Volume 130.

Q. "Q. Anything else about Frank Fazio? Were the nurses on the floor upset about the death of this child?"

"A. I remember being upset for the parents."

"Q. For the parents?"

"A. Yes."

"Q. Why particularly for the parents of Frank Fazio?"



Trayner
cr.ex. (Percival)

HH5

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"A. Because the parents were first
cousins..."

And then you went on with your explanation.

Do you remember saying that?

A. Yes.

Q. Baby Thomas, page 331, and
you gave very, very skimpy evidence about Baby Thomas
that died on the ward:

"Q. Other than this vague recol-
lection of seeing the child with her
mother, I take it that was the
evening before she died, the evening
of the start of a long night shift?"

"A. Right."

"Q. You have no other recollection?"

"A. No."

"Q. Or of the arrest itself?"

"A. No, I don't."

Baby Warner, page 334. You were
asked about Baby Warner:

"A. And that's about all until
after her arrest; and I can remember
speaking with the parents after the
baby had died."

And this is where Mr. Lamek said the same thing as I



HH6

1

2

am saying to you:

3

"Q. Mrs. Trayner, believe me I don't mean to be critical, but you haven't told me very much about the baby."

4

5

6

"A. I don't recall much about the baby."

7

8

"Q. Your recollection is of dealing with the parents when you went to collect the child in the emergency department and brought them up to the floor with the child?"

9

10

11

12

"A. Yes."

13

"Q. And then dealing with them (the parents) after the arrest?"

14

15

"A. Yes."

16

"Q. But as to Baby Colleen Warner herself I take it from that that you have essentially no recollection of her?"

17

18

19

"A. No. I remember the parents again were very upset that the child was sick."

20

21

22

"Q. You don't recall her condition and the course that she followed

23

24

25



Trayner
cr.ex. (Percival)

HH7

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during your shift or anything of
that sort?"

"A. No, I don't."

Now, ma'am, again I can go through
it. There are about four other examples in that same
volume. Do you not agree with me that when you are
being asked about these babies you are being asked
about the babies, not about the babies' parents? You
weren't misled by Mr. Lamek's questions?



1

2

H/EMT/LN

3

A. I understand it to -- you are asking me what I can remember.

1

4

Q. Well the purpose of the exercise in this Commission, Mrs. Trayner, is to find how and by what means the babies died.

5

6

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Now when you are asked questions about that we want to know what you know about the events preceding the babies' deaths, and when you are asked about those you have singularly little detail to give us. Now what I am saying to you, when you are asked about them you always come back well, I spoke to the parents, that is why I remember something.

14

A. Yes.

15

16

Q. You never talked about the baby. That doesn't strike you right now, does it? That doesn't seem unusual to you?

17

18

19

20

A. Well, I think you have to understand that with baby Estrella I was questioned by the police in May or June I think about the baby. I wasn't even approached by the police about Lombardo until '83 -

21

22

23

24

25

Q. Ma'am, I am not talking about Lombardo now. We are on to about five or six other babies where you started talking about the parents not about the baby, and I want you to know - do you



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not think that is an unusual response? If you don't think it is an unusual response then I will pass on to another subject.

3

4

5

A. No, I don't think it is unusual.

6

MR. PERCIVAL: Maybe this would be a useful time, Mr. Commissioner.

7

8

THE COMMISSIONER: Yes. All right.

9

10

Well I think we will take a poll now. I think that would be a good idea. How long do you think you will be, Mr. Percival?

11

12

MR. PERCIVAL: I would think I will be all day tomorrow, Mr. Commissioner.

13

14

THE COMMISSIONER: I think I had better carry on then because it may make a difference.

15

Mr. Roland?

16

MR. ROLAND: I won't be very long. Maybe half an hour, an hour.

17

18

THE COMMISSIONER: Miss Jackman - no, sorry, Miss Symes?

19

20

21

MS. SYMES: Mr. Commissioner, I probably will be less than an hour. I am not available on Friday though. I have already asked my friends to pass over -

22

23

24

25

THE COMMISSIONER: Well it is obvious we are going into next week, and we could certainly



3

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2

sort you out. Miss Jackman?

3

MS. JACKMAN: Fifteen minutes to half

4

an hour.

5

THE COMMISSIONER: Mr. Olah?

6

MR. OLAH: I would be about an hour,
sir.

7

THE COMMISSIONER: Mr. Labow?

8

MR. LABOW: I will be about ninety

9

minutes, Mr. Commissioner, but I also can't be here
on Friday.

10

11

THE COMMISSIONER: Are there any other
parents? Oh, yes, Mr. Tobias.

12

13

MR. TOBIAS: About an hour, Mr.

14

Commissioner. And I can't be here Friday either so
I would want to go on on Monday.

15

16

THE COMMISSIONER: Yes. Well, I think
we are all right. Does anybody else think we are
not all right? I am thinking of completing Monday and
Tuesday, that's all.

17

18

19

MS. JACKMAN: Mr. Commissioner, I am not
sure if Grant Knazan my partner can be here Friday,
but I can't.

20

21

22

THE COMMISSIONER: You can?

23

MS. JACKMAN: No, I can't, and I'm not
sure that he can either.

24

25



1
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3 THE COMMISSIONER: This seems to be
4 quite a conspiracy against sitting on Friday. I am
5 not suggesting that there is a credibility problem
6 with any of the Counsel.

7 MR. LAMEK: I did the same sort of
8 exercise that you have just done. With respect, it
9 seems to me even if we do not sit on Friday we will
10 finish Mrs. Trayner by the end of the day on Tuesday
11 and Dr. Kauffman, as you know, is coming in on
12 Wednesday. I think the timing will fit even without
13 Friday, sir.

14 THE COMMISSIONER: Yes. All right.
15 We will sit tomorrow.

16 Is there any merit now - so that you
17 can finish tomorrow is there any merit in coming in
18 at 9:30?

19 MR. PERCIVAL: I would be pleased to
20 come in at 9:30 if you are, sir.

21 THE COMMISSIONER: I'm not that pleased,
22 but I will come in at 9:30 if you think it will help.

23 MR. PERCIVAL: I think it will. I will
24 stand a better chance of finishing.

25 THE COMMISSIONER: Yes. All right. I
think we will make it - I better ask you, Mrs. Trayner,
have you any problem about 9:30 tomorrow?



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Trayner,
cr. ex. (Percival)

1211

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2

THE WITNESS: No, I don't.

3

THE COMMISSIONER: All right. Then

4

9:30 tomorrow morning.

5

--- (Whereupon the hearing adjourned at 4:35 p.m.
until Thursday, April 26th, 1984, at 9:30 a.m.)

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